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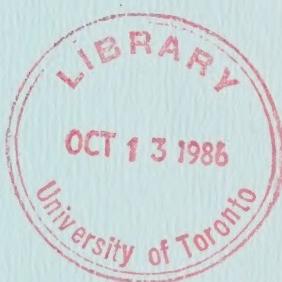
VOLUME: 143

DATE: Wednesday, October 4th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Wednesday, October 4th,
1989, commencing at 8:30 a.m.

VOLUME 143

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

(i)

A P P E A R A N C E S

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<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
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1 ---Upon commencing at 8:30 a.m.

2 THE CHAIRMAN: Good morning. Please be
3 seated.

4 Mr. Freidin, the Board has reviewed
5 Exhibit 877 and we would just like you to deal with, on
6 pages 13, 14 and 15, a clarification of what an FEPP is
7 versus the Timber Management Class EA. That's all the
8 clarification we are going to need on this document.

9 You can then finish off your presentation
10 of the evidence for Panel 15 and we will move along.

11 JOHN McNICOL,
12 FRANK D. KENNEDY,
13 J. JOSEPH CHURCHER,
14 RICHARD WILLIAM GROVES,
15 HARTLEY MULTAMAKI,
16 ALBERT BISSCHOP,
17 ROGER W. DAVISON,
18 ROBERT THOMAS FLEET, Resumed

19 CONTINUED DIRECT EXAMINATION BY MR. FREIDIN:

20 Q. Mr. Bisschop, perhaps you could speak
21 to those particular pages and clarify the matter just
22 raised by the Chairman, and that is to perhaps explain
23 a little bit what this FEPP is and how it relates to
24 the Class EA for access roads to MNR facilities?

25 MR. BISSCHOP: A. Mr. Chairman, in the
evidence of Panel 1 I believe Mr. Douglas spoke to a
number of the existing environmental assessment
approvals that the Ministry has in place.

1 There are eight separate Class EAs that
2 deal with, what I would call, minor projects that the
3 Ministry undertakes dealing with, for example, dams and
4 dikes, stream bank improvement, fisheries projects, et
5 cetera. The one that relates to timber management
6 through the condition No. 3 of the exemption order is
7 the Class EA for access roads to MNR facilities.

8 Each of the eight Class EAs has within it
9 a planning procedure that's referred to as the FEPP and
10 that acronym stands for field environmental planning
11 procedure. The procedure is virtually the same in each
12 one of those Class EAs. It is included, however,
13 separately in each Class EA and there will be specific
14 commentary in the field environmental planning
15 procedure for the particular Class EA that speaks to
16 the subject that's being addressed.

17 For example, in the FEPP that's included
18 in the Class EA for access roads to MNR facilities
19 there is specific discussion about obviously roads.

20 On pages 14, 15 and 16 in the centre
21 column under FEPP, I have indicated the elements of the
22 FEPP itself, what is required to be addressed in the
23 planning process that's outlined in that procedure,
24 such matters as identifying alternatives, what is
25 referred to as an initial general analysis.

1 Essentially what happens is that alternatives are
2 identified, there is a general analysis done, but no
3 preliminary decision is made before you go public.

4 The initial general analysis is followed
5 by, if you turn to page 15, the first opportunity for
6 public review. The idea is there that you get comments
7 on the alternatives that will be incorporated in the
8 subsequent detailed analysis, and then the detailed
9 analysis is completed and the rationale for a decision
10 is made.

11 One point I would like to make is that
12 the Class EA for access roads to MNR facilities was
13 never designed for nor intended to deal with major
14 roads, it was meant to deal with minor road facilities
15 to access MNR facilities; for example, a minor road
16 that would access an access point on a lake.

17 You are also probably aware that MNR
18 exemption order MNR 11, which deals with timber
19 management, has frequently been renewed, that's why you
20 have the current exemption order MNR 11-9. The 9
21 refers to the ninth renewal of that exemption order
22 over the period from 1975 through '85 I believe -- or
23 '83 or '84, I can't recall.

24 In order to -- as we were dealing with
25 the subject of preparing the Class EA, in order to get

1 environmental assessment style analysis into timber
2 management a condition was introduced in MNR 11-3 which
3 was approved by Order-in-Council on April the 2nd of
4 '81 that required that primary roads on Crown
5 management units would be planned in accordance with,
6 at that time, the draft Class EA for access roads to
7 MNR facilities.

8 The intention then was to start getting
9 into environmental assessment style consideration of
10 alternatives and analysis and rationale for decisions
11 on the subject of roads and we would deal with that on
12 Crown management units where MNR had the responsibility
13 for planning.

14 So my point is that the exempt -- I am
15 sorry, the Class EA for access roads to MNR facilities
16 was never intended to deal with primary roads, but it
17 was applied through the condition of the exemption
18 order. And that condition has carried through all of
19 the renewals of the exemption order and, in effect,
20 still applies today through MNR 11-9 because that
21 exemption order was permitted to be carried on on the
22 condition that we submitted our Class EA by December of
23 '85.

24 THE CHAIRMAN: And if you want to build a
25 primary road during that period of time, would you have

1 had to have gone under the Act or would that have been
2 exempted as well?

3 MR. BISSCHOP: Primary roads on Crown
4 units would have to be planned in accordance with this
5 approved Class EA and, therefore, that's the approval
6 under the Act under which they would have to be
7 planned.

8 MR. FREIDIN: The approved Class EA --

9 THE CHAIRMAN: This being what, the one
10 before us?

11 MR. BISSCHOP: No, I'm sorry, the Class
12 EA for access roads to MNR facilities.

13 THE CHAIRMAN: Okay.

14 MR. BISSCHOP: On Crown units only.

15 THE CHAIRMAN: Thank you.

16 MR. FREIDIN: Q. Now, yesterday, Mr.
17 Bisschop, perhaps arising out of some evidence that was
18 given about roads, Mr. Campbell indicated that he had
19 some confusion as to what the Red Lake plan was an
20 example of; was it an example of the proposed timber
21 management planning process, the one which is being
22 implemented now and the one which is being put before
23 this Board, or was it an example of some other planning
24 process. And I --

25 THE CHAIRMAN: Well, just a moment.

1 Wasn't that dealt with late yesterday? I thought that
2 question was answered late yesterday in that the Red
3 Lake Plan is under the planning process that we are now
4 dealing with.

5 MR. BISSCHOP: We dealt with it, Mr.
6 Chairman, but I believe there is an important point
7 that probably has led to Mr. Campbell's confusion that
8 we would like to address.

9 THE CHAIRMAN: All right.

10 MR. BISSCHOP: We have indicated that the
11 Red Lake Plan was planned in accordance with the
12 December, '85 version of the Class EA and the TMPM and,
13 in that sense, the road planning that was done for the
14 Red Lake Plan was done in accordance with the direction
15 in those two documents.

16 The confusion I believe is related to a
17 question, I forget the date, concerning - I believe Ms.
18 Swenarchuk posed this question - concerning what
19 planning requirements applied for roads for the Red
20 Lake Crown Management Unit. And, as I just indicated,
21 concerning the use of the FEPP for Crown units, the Red
22 Lake Plan is for a Crown management unit and the
23 condition related to planning of primary roads in the
24 exemption order applies.

25 I spoke to Mr. Multamaki about his answer

1 to the question as to what planning requirements
2 applied to the planning of roads on the Crown unit and
3 I think he may have confused matters in that on one
4 occasion --

5 MS. SWENARCHUK: Mr. Chairman, surely in
6 the presence of the other witnesses it is not
7 appropriate for Mr. Bisschop to be speculating as to
8 Mr. Multamaki's possible confusion.

9 MR. FREIDIN: That's fine, Mr. Chairman.
10 I was just trying to speed things along.

11 Q. Mr. Multamaki, perhaps you can
12 indicate, in your evidence at one point you indicated
13 that you could in fact provide an example of the
14 application of the planning process in relation to
15 roads by referring to your plan and you did so.

16 And later on in response to a question
17 you indicated that the planning of roads was done in
18 relation to the field environmental planning procedure.

19 There is an apparent contradiction in
20 those two particular statements and perhaps you could
21 comment on the apparent contradiction?

22 MR. MULTAMAKI: A. Certainly. When we
23 wrote the Red Lake Crown Management Unit Plan, I had
24 said that we had planned under the FEPP or the old
25 exemption order. What I meant to say was that those

1 were the requirements that we had to meet at that time.

2 In fact, what we had done was planned all
3 activities, including primary road access, under the
4 Timber Management Planning Manual and the Class EA as
5 they existed at that time.

6 Q. Mr. Bisschop, I understand there was
7 an interrogatory posed by the Nishnawbe-Aski Nation,
8 Interrogatory No. 18, where they wanted some
9 information regarding the planning of primary roads on
10 the Red Lake Crown, one road in particular; is that
11 correct?

12 MR. BISSCHOP: A. Yes, that's correct.

13 MR. FREIDIN: Mr. Chairman, I would like
14 to file as the next exhibit a copy of Nishnawbe-Aski
15 Nation Interrogatory No. 18 for Panel 15.

16 THE CHAIRMAN: Exhibit 878.

17 MR. FREIDIN: (handed)

18 THE CHAIRMAN: Thank you.

19 ---EXHIBIT NO. 878: Nishnawbe-Aski Nation

20 Interrogatory No. 18 and answer thereto. (Panel 15)

21 MR. FREIDIN: Q. All right. Mr.
22 Bisschop, perhaps you could speak to that interrogatory
23 and the answer?

24 MR. BISSCHOP: A. Yes. Mr. Chairman,
25 the question refers to Book 5, page 55 of the Red Lake

1 Crown Management Unit Plan and what page 55 is is a
2 copy of the public notice for the information centre
3 for the Red Lake Crown Management Unit, and that notice
4 includes the statement that's referenced in the
5 question. It says that:

6 "Primary road proposals are being
7 planned and presented under the approved
8 MNR Class EA for access roads to MNR
9 facilities."

10 As I have indicated before, that's the
11 direction that applies under the exemption order for
12 the planning of primary roads on Crown management
13 units.

14 We provided that direction to the Red
15 Lake Crown Management Unit in the preparation of the
16 plan and, in attempting to respond to this
17 interrogatory, we conducted extensive searches of the
18 files and couldn't come up with the documentation
19 that's required under that exemption order -- under the
20 terms of that Class EA.

21 Obviously the public notice for the
22 information centre refers to that requirement and we
23 obviously expected that we would readily find that
24 documentation, but we have been unable to.

25 However, in the documentation that

1 accompanies the Red Lake Plan and the supplementary
2 documentation that deals with the roads - and in the
3 case of the Valhalla Road, that has been referred to
4 extensively in our evidence - we provided the
5 documentation of the planning of those roads, the
6 analysis that was done and concluded that the basic
7 elements of the environmental analysis requirements of
8 the Class EA for access roads to MNR facilities had
9 been completed in that analysis.

10 For example, the consideration of
11 alternatives, the environmental analysis that's
12 conducted, the rationale for the selection of a
13 preferred road, and that the two public notice
14 requirements of the Class EA for access roads to MNR
15 facilities are met, first of all, through the notice
16 requirement for the information centre which does
17 specifically refer to that FEPP -- or the Class EA for
18 access roads to MNR facilities to be more accurate, and
19 the second notice requirements are fulfilled by the
20 subsequent public notice requirements for the plan, in
21 particular, the last notice dealing with public
22 inspection.

23 But in response to the interrogatory, we
24 have been unable to find the necessary documentation to
25 meet the requirements of the Class EA for access roads

1 to MNR facilities.

2 THE CHAIRMAN: What is the consequence if
3 in fact you hadn't followed the procedure set out in
4 the FEPP in that exemption -- or the Class EA?

5 MR. FREIDIN: Well, Mr. Chairman, I think
6 that perhaps is a legal matter and someone may have
7 taken the position that there had not been compliance.
8 I think the witness has indicated that in substance it
9 is the Ministry's position that compliance was there.
10 Someone might want to differ with that position, and I
11 think that would be probably the consequence.

12 THE CHAIRMAN: I guess what I am asking:
13 Does the Class EA deal with non-compliance at all?

14 MR. BISSCHOP: The Class EA or the
15 exemption order?

16 THE CHAIRMAN: Sorry, the exemption
17 order, is there any--

18 MR. BISSCHOP: No.

19 THE CHAIRMAN: --section in there that
20 deals with what happens in the event that all the
21 requirements are not met?

22 MR. BISSCHOP: I don't believe there is
23 anything in there that deals with that.

24 THE CHAIRMAN: Okay.

25 MR. FREIDIN: Just a couple of wrap-up

1 questions, Mr. Chairman.

2 Q. First for you, Mr. Bisschop. Now,
3 you have indicated that the Red Lake Timber Management
4 Plan provides examples of the process being
5 implemented, and specifically in relation to the area
6 of your evidence, the area of concern planning and the
7 road planning, could you indicate how the Red Lake
8 Timber Management Plan stands up against what you
9 expect if the draft terms and conditions filed by the
10 Ministry regarding those subjects become actual terms
11 and conditions?

12 MR. BISSCHOP: A. I think in terms of
13 responding to that question the first comment I would
14 like to make is that the Red Lake Plan, as you have
15 been advised I think repeatedly, was one of the first
16 plans that has ever been produced under the
17 requirements of the Class EA and the Timber Management
18 Planning Manual.

19 It was produced in 1986 immediately upon
20 the release of those two documents for application by
21 our field staff. So I think that's an important point
22 to bear in mind. There was little, if any, provincial
23 training done at that time; the training that was done
24 was done by the northwest region staff who received
25 some training from main office at that time.

1 So with that kind of background, my view
2 is that the application of the planning requirements,
3 particularly as they relate to roads and areas of
4 concern, was quite good for that time. The basic
5 elements of the planning process were applied:
6 identification and consideration of alternatives,
7 analysis of those alternatives leading to a conclusion
8 on a preference, and rationalization of that
9 preference.

10 My own view is that the supporting
11 documentation, however, is lacking, that the
12 documentation of the analysis and, if you will, the
13 traceability that allows one to readily see how a
14 conclusion on a preferred alternative was arrived at is
15 lacking, and that is a subject that we have been
16 attempting to address considerably over the last two
17 years through our training course of people involved in
18 timber management planning.

19 I make those comments related to both the
20 road planning and the area of concern planning and I
21 think we have, through our evidence, through the
22 examples that we provided through Mr. Multamaki in our
23 evidence attempted to demonstrate that the basic
24 elements of the requirements are applied.

25 Finally, on the subject of the

1 supplementary documentation itself on access road and
2 area of concern planning, again, I've indicated that
3 it's perhaps lacking.

4 On the subject of documentation of public
5 consultation, my view is that the documentation there
6 is probably excessive in the sense that I would prefer
7 to see some summarization of the public comments and
8 the involvement of -- or the consideration of public
9 comments in decision-making as opposed to basically the
10 filing of files in the supplementary documentation, and
11 I think we have also spoken to that question through
12 Mr. Kennedy where we have indicated that we are trying
13 to make a separation between what should be in files
14 and what should be summarized from those files and
15 accompany the plan in the supplementary documentation
16 documents.

17 Q. And for you, Mr. Fleet. Mr. Kennedy
18 gave evidence somewhat along the lines that Mr.
19 Bisschop just did. He indicated back on page 22880
20 and -81 that the process was in fact being used now
21 because they wanted to have staff gain experience with
22 the process, to make revisions to the process where
23 necessary, and to ensure that the process as proposed
24 was in fact implementable once the Board approved the
25 undertaking, assuming it was approved with terms and

1 conditions which reflect the process as put forward.

2 Have you been involved in plan
3 preparation -- or were you involved in plan preparation
4 before you went to main office and became involved in
5 plan review and approval?

6 MR. FLEET: A. Yes, I was.

7 Q. And have you been involved in plan
8 preparation since you've returned to the district after
9 your assignment in main office?

10 A. Yes. I am currently involved in
11 preparation of the Timmins Crown Management Unit Timber
12 Management Plan.

13 Q. And when you were in main office, I
14 understand that you would have reviewed plans from
15 across the area of the undertaking?

16 A. Yes, I did.

17 Q. I would like you to step back for a
18 moment from the Red Lake TMP itself and I would like to
19 ask you to speak more generally as to how the timber
20 management plans are being prepared compared to the
21 product that you hope to see?

22 A. I think I would have to start by
23 saying that the timber management plans that I have
24 been involved with, either in the production of those
25 plans or in the review of those plans, in my opinion,

1 do meet the minimum requirements as laid out in the
2 Timber Management Planning Manual.

3 In terms of what I would like to see as a
4 plan producer or previously as a plan reviewer, there
5 is room for some improvement in terms of the plans that
6 were prepared in the first few years of our plan
7 preparation under this new process. There have been
8 some improvements to those plans as we have progressed
9 over time.

10 In other words, I guess what I'm saying
11 is, stepping back from the Red Lake Plan, the plans
12 that have been produced most recently, I would suggest,
13 are getting better at meeting minimum requirements and
14 everybody's common understanding of exactly what
15 minimum requirements are is getting better as we get
16 more practice at it, as we develop more plans, as we
17 review more plans.

18 And as we get a better understanding of
19 what type of product is being produced, everybody's
20 understanding of minimum requirements is getting
21 better.

22 THE CHAIRMAN: But everybody's
23 understanding across the area of the undertaking
24 wouldn't be necessarily constant; would it?

25 MR. FLEET: At this point in time, no.

1 And I guess what we have done in terms of trying to
2 develop a common understanding -- well, we have tried
3 to develop a common understanding just in recognition
4 of that fact, Mr. Chairman.

5 MR. FREIDIN: Q. And how have you gone
6 about trying to do that and to improve the timber
7 management plans which are being produced?

8 MR. FLEET: A. There are a number of
9 things that we have done to develop a common
10 understanding of minimum requirements.

11 First of all, as in the evidence that I
12 led, we have developed a fairly comprehensive set of
13 bulletins which define or help to define minimum
14 requirements as a companion to the Timber Management
15 Planning Manual but, in addition to that - and perhaps
16 as the single most important initiative - we have
17 pursued a fairly active training program across the
18 province for timber management planning team members.

19 In 1988 we held two such sessions, timber
20 management planning training sessions -- I'm sorry, we
21 held three in 1988 and in 1989 we held two of those
22 sessions. We have, if you would, put more than 500
23 planning team members through the mill at this point in
24 time.

25 The required attendance at those training

1 sessions generally is all members of the planning team
2 for each plan to be prepared for the upcoming year.
3 So, in other words, it's more or less required that if
4 you're on a planning team prior to and at the very
5 early stages in the development of a plan, you must
6 attend a provincial timber management planning training
7 session so that we can, in fact, better explain and
8 develop that common understanding of the minimum
9 requirements.

10 Those training sessions, Mr. Freidin, are
11 fairly comprehensive. They are both a lecture forum
12 and a workshop or exercise forum involving all members
13 or all disciplines in the planning team and involving
14 all facets of TMP production. So all of the fish and
15 wildlife staff must sit through calculation of MAD
16 exercises and, conversely, the forestry staff or the
17 lands staff must sit through guidelines application,
18 whatever.

19 Q. And, Mr. Fleet, on the assumption
20 that the process to be followed after this hearing is
21 one which is presently reflected by the draft terms and
22 conditions that have been addressed by this panel as
23 they relate to the planning process, do you believe
24 that the Ministry of Natural Resources and the forest
25 industry in this province will be able to implement

1 that process?

2 A. Given the commitment that I have seen
3 to date by planning teams and plan producers, given the
4 improvements that I have seen over the three odd years
5 that we have been at this, in addition, given the
6 responses and the acceptance to the review and approval
7 process and the required alterations that have been
8 incorporated to draft plans, putting all of that
9 together I would say, yes, very much so, that we could
10 and that the forest industry too could meet the
11 requirements of this process.

12 MR. FREIDIN: Thank you. Those are my
13 questions, Mr. Chairman.

14 THE CHAIRMAN: Thank you, Mr. Freidin.

15 Ms. Swenarchuk, are you ready to go?

16 MS. SWENARCHUK: Yes.

17 CROSS-EXAMINATION BY MS. SWENARCHUK:

18 Q. Mr. Fleet, Mr. Freidin established
19 that you were currently involved in planning for
20 Timmins Crown Management Unit?

21 MR. FLEET: A. Yes, that's correct.

22 Q. Not for the Timmins Forest then?

23 A. There is no current planning exercise
24 on the Timmins Forest. I have been recently involved
25 with an amendment to the Timmins Forest.

1 Q. The Timmins Forest being -- is it an
2 FMA?

3 A. Yes, it is.

4 Q. That's fine. Thank you.

5 MS. SWENARCHUK: Mr. Chairman, just
6 before I begin, I am in the rather unenviable position
7 of beginning this cross-examination after your comments
8 yesterday and I will save a full discussion of that
9 matter for next week with everyone else.

10 I simply wish to say that I think my
11 position on that question is well known, my position as
12 to responsibility for the length of the hearing has
13 been reported in various public fora and, having
14 considered your comments I consider that my client's
15 interest require that I proceed with the
16 cross-examination which, given the size of this panel,
17 is relatively long and is relatively technical and
18 detailed, and it is our considered opinion that that is
19 necessary for an examination of the evidence.

20 You will note as I proceed through it
21 that very little of it relates to any oral testimony,
22 rather it relates largely to the documentation which is
23 consistent with our view that oral testimony was
24 relatively unnecessary in direct on this panel.

25 I will be questioning for one to two days

1 and Mr. Lindgren perhaps the same length of time.

2 THE CHAIRMAN: Well, we are certainly not
3 going to inhibit cross-examinations, we have never
4 attempted to do so. Having said that, however, we
5 would ask all counsel when cross-examining to focus
6 upon those issues in which there is disagreement with
7 the positions put forward by the proponent.

8 We are not interested in repetition of
9 any of the evidence that has come in and we are not
10 interested, frankly, in hearing from the opposition
11 parties on those areas with which they agree.

12 The purpose, as we see it, of
13 cross-examination is to bring out the differences in
14 view of the various parties and to put your own
15 position in terms of offering alternatives to what is
16 proposed before the Board in your own case and, in that
17 way, we think that we can speed up what has been a far
18 too lengthy process to date and we are going to jump on
19 any counsel who attempts to repeat anything that we
20 have heard up to this point and that doesn't follow
21 guidelines with respect to what the underlying purpose
22 of cross-examination is really all about.

23 MS. SWENARCHUK: I don't have any
24 disagreement with that position, Mr. Chairman.

25 Q. I believe the first question is for

1 Mr. Kennedy. If you would turn, please, to page 118 of
2 Volume I of the witness statement and the reference to
3 the requirement now for a report of past forest
4 operations.

5 Now, Mr. Kennedy, does the report on past
6 operations include details on the type of operations
7 that would enable the Ministry to correlate success or
8 failure with specific treatments?

9 MR. KENNEDY: A. The report's format
10 itself is a summary of the information that has been
11 pulled together in the annual reports and, as such, is
12 a listing of the achievements, if you will, of the
13 amount of area that has been harvested, the amount of
14 area planned in that regard. So on its own it would
15 not enable you to compare success or failure, if you
16 will, on specific treatments.

17 Q. The public then will not be able to
18 determine from looking at this report how successes or
19 failures correlate to specific treatments?

20 A. I think in the comment section, which
21 accompanies the report of past forest operations, there
22 will be comments as to the treatments that have been
23 most successful and comments for change which would be
24 passed on to the person preparing the new plan.

25 So I do believe that there will be

1 elements of that in the total report of past forest
2 operations, but certainly not as evident from the
3 tables which are the basic substance for the report.

4 Q. Is there a plan in existence now in
5 which the report of past operations includes those
6 details that you could provide to us?

7 As I recall I think from an OFAH
8 interrogatory, I think there are now 37 completed plans
9 under the new management planning process; is that
10 right?

11 A. I can't speak of the exact number
12 today, but I believe that would be in the order, yes.

13 Q. So...

14 A. And as far as a plan that would have
15 what I would call a complete and full report of past
16 forest operations, I believe it will take another five
17 years in which to have a plan that will show that
18 complete range of information, just because of the
19 planning schedules.

20 Those plans that have been prepared now
21 under the new process had had a variety of
22 recordkeeping in the past. We were able to consolidate
23 that with the new Timber Management Planning Manual
24 with the reporting fashion, so it will take a period of
25 time in which to ensure that there is similar data that

1 fits exactly with the report of past forest operations.

2 Q. Let me put the question this way
3 then: In the training that is occurring across the
4 province, are the planners being instructed to include
5 in their reports of past operations the kinds of
6 details that I am interested in?

7 A. Yes. There has been quite a bit of
8 discussion of that both in training and internally just
9 for general discussions as to our expectation of what
10 should occur there.

11 Q. Specifically, Mr. Kennedy, have they
12 been instructed to include in the report of past
13 operations the kinds of details that will allow the
14 public to correlate success and failure in meeting
15 management plans with specific treatments?

16 A. As I indicate, there will be comments
17 relative to the treatments that have been put onto the
18 management units that would...

19 THE CHAIRMAN: But, Mr. Kennedy, I think
20 the question is more specific than that. In the
21 training sessions, are those attending being instructed
22 to include documentation that will allow the public to
23 determine whether there has been success or failure
24 with the various silvicultural practices?

25 MR. KENNEDY: Yes, I believe they are.

1 MS. SWENARCHUK: Q. And will the reports
2 of past operations include the environmental impacts of
3 past operations such as impacts on wildlife populations
4 and on-ground impacts, erosion, et cetera, impacts on
5 sensitive sites?

6 MR. KENNEDY: A. I don't think I am in a
7 very good position to answer that, or Panel 16 will be
8 providing evidence relating to --

9 Q. Well, Mr. Kennedy, with respect to
10 the planning process and the requirement for report on
11 past forest operations, surely you are in as good a
12 position as any member in the Ministry to answer that
13 question. If it's not a requirement, perhaps you could
14 just clearly tell us that?

15 A. What I can advise you is that there
16 is a new initiative that has been included in our terms
17 and conditions to add some information to the report of
18 past forest operations, that Panel 15 members have been
19 describing the items that are related directly to
20 planning and our Panel 16 witnesses will be giving
21 evidence with respect to compliance and effectiveness
22 monitoring. Part of their evidence will deal with some
23 new initiatives that will be added to the report of
24 past forest operations.

25 So I was attempting to indicate that when

1 the evidence of that panel has been given they will be
2 describing those new initiatives and, quite frankly, I
3 have not been involved in those discussions and I am
4 unable to provide you with information on that topic.

5 Q. And I take it no one else on the
6 Panel has the information either?

7 A. I believe that is correct.

8 Q. In which case, certainly if such an
9 initiative is contemplated, it's not in existence at
10 this time and we shouldn't expect to see it in the next
11 five-year plans?

12 A. It's an initiative that is -- I
13 believe will be taking effect with those plans that
14 will be due in 1991, I believe it is.

15 Q. You mean plans that will be commenced
16 as of 1991?

17 A. That will become due and approved in
18 that year.

19 Q. All right. Now, on the next page,
20 Mr. Kennedy, page 119 - I will just summarize - there
21 is a discussion in the second paragraph of the page
22 regarding map requirements in timber management
23 planning and the last few lines of the paragraph
24 indicate that:

25 "The Ministry has found significant

1 difficulty in reproducing the maps in an
2 efficient and cost effective manner for
3 those who can cannot travel to see them
4 and several methods of resolving this
5 problem are being tested."

6 And this may seem like a small point, but
7 for my clients, for example, who have been attempting
8 to study timber management plans and have not had
9 access to all the district offices, it has been a very
10 significant problem.

11 Can you tell us what progress has been
12 made and whether we can expect to see some form of
13 reproduced maps even, for example, with the filing with
14 the Ministry of the Environment in Toronto where
15 currently they are not available?

16 A. Yes. Currently, I will start off by
17 indicating that our progress on that has been hampered
18 by the involvement of Panel 15 members, specifically
19 Mr. Bisschop and myself, in this hearing.

20 Q. Well, Mr. Kennedy, this is a problem
21 that goes back many years. Surely that is not the
22 reason that the solution hasn't been found?

23 A. It is in part, in part the answer to
24 your question. We have been hampered in our progress.
25 One of the items that we do have and have always had in

1 the requirements of timber management planning is a
2 generalized map which shows where the areas of
3 operations are for the five-year term. That is a
4 requirement and that has always accompanied plans. I
5 believe it's at a scale of 1:250,000.

6 We are exploring the idea of including
7 additional maps with all copies of the plan and making
8 some of those maps readily available to the public, in
9 particular the values map. We have not resolved that
10 and it is largely due to our involvement here in this
11 panel.

12 We are quite hopeful -- or quite hopeful
13 and confident that we will be able to come up with a
14 mapping system that will allow our districts to produce
15 maps in a more efficient form to make them available to
16 a wider group of people.

17 THE CHAIRMAN: Mr. Kennedy, are you
18 talking about new technology or are you talking about
19 the Ministry making a decision as to whether or not to
20 routinely include certain types of maps with all plans
21 for wherever the plans are distributed, such as a
22 values map?

23 MR. KENNEDY: In this case we are talking
24 of new technology -- in part, new technology. The
25 large-scale photocopying which we have been able to use

1 for a number of the maps in conjunction with the
2 hearing, such as those used in the site visits, such as
3 the copies that we have used with the Red Lake Plan and
4 included in the reading room, we had hoped would be one
5 of the most efficient ways of dealing with that. It's
6 relatively low cost in comparison to some other means.

7 We have ran into some difficulties with
8 the two machines that we've had experience with, in
9 that they constantly blur and there has been concern
10 raised by in fact parties here at the hearing that the
11 maps are not legible. So that that idea has almost
12 dried up at this point.

13 THE CHAIRMAN: Have they explored the
14 idea of getting any of these maps on microfilm; is that
15 possible?

16 MR. KENNEDY: Yes, and we have done that.
17 We have not made those readily available as of yet
18 because that involves ensuring that there is access to
19 microfiche readers and we have not arranged that, but
20 it is certainly one of the aspects that we have tried
21 out. We have text of the plans on microfiche and it
22 has proved to be quite a successful technique of
23 ensuring we have plans that are readily available for
24 our internal use.

25 The difficulty does come with maps and

1 the amount of information that is contained on there
2 and the ability to scan the map and the small frame on
3 which a microfiche reader allows you to view just a
4 small portion of the map, and quite often we found that
5 it's desirable and almost necessary to have a larger
6 than 8 1/2 x 11 view of that map.

7 So it is a continuing difficulty, but I
8 do think we will be able to resolve it in a manner that
9 I believe your clients will be interested in.

10 MS. SWENARCHUK: Q. Would it be so
11 difficult just to colour in two copies of it and send
12 one to the EA Branch in Toronto as opposed to only
13 having one in the office, and wouldn't that be a
14 simplified at least interim form of solution?

15 MR. KENNEDY: A. Yes, it would be
16 possible to do that.

17 Q. Now, Mr. Kennedy and Mr. Multamaki,
18 there was discussion on September 13th regarding the
19 inclusion of company representatives on planning teams.
20 And, Mr. Kennedy, you also made reference to term and
21 condition No. 1, Exhibit 700, which offers the
22 Ministry's position on the involvement of non-Ministry
23 personnel on the planning teams in the future. I will
24 just give everyone a moment to read that.

25 And what I see in reading that term and

1 condition is that there is no provision in it for
2 forest users other than industry, in addition to
3 government personnel to be involved in the planning
4 process. Specifically, there is no provision for
5 naturalists, non-consumptive tourist users or native
6 groups to be involved in the planning team, and I
7 wonder why that is. These individuals are also users
8 of the forest.

9 Let me put the question another way: Why
10 does the industry get such a privileged position with
11 regard to the planning process?

12 A. Okay. The last line of draft term
13 and condition No. 1 that we have submitted is making
14 reference to Ministry-prepared plans so, as such, is
15 those plans that are being prepared for Crown
16 management units.

17 If I could address the other two types of
18 management units that we have, those being company and
19 FMA forests, it's quite obvious that there would be
20 company representation on those planning teams as those
21 individuals are directly involved in the plan
22 preparation and are responsible for its production.

23 Q. Let me be clear, Mr. Kennedy. I am
24 not necessarily arguing against the inclusion of
25 industry people, what I am questioning is the exclusion

1 of other forest users.

2 A. Mm-hmm.

3 Q. Could you address that question,
4 please?

5 A. Okay. We feel that it's not directly
6 required as a given on all planning teams and that the
7 industry that is present on the Ministry-prepared plans
8 is there as an advisor to the planning team, and we
9 feel that we have sufficient expertise within the
10 Natural Resources Ministry within the various staff
11 members that we have that are appointed to the team,
12 the expertise to address those concerns that are raised
13 through members of the public through the public
14 consultation program.

15 Q. Well, I suggest to you, Mr. Kennedy,
16 that perhaps another reason for not including other
17 categories of individuals is that they might have
18 different goals with regard to timber management
19 planning and they might be proposing different
20 approaches to it during the planning process than the
21 Ministry and industry individuals necessarily would.
22 Could I have your comments on that?

23 A. I wouldn't say that that is something
24 that has led to ruling out. I am not particularly sure
25 I would share your opinion on that, though I wouldn't

1 be surprised there are people that have different views
2 on the way in which Ontario forests should be managed.

3 Currently the Ontario government has
4 given us the responsibility to manage the forests and
5 the manner in which we are doing that is through this
6 particular set of instructions put together as a Timber
7 Management Planning Manual and we do believe that there
8 is ample opportunity for the people to be involved
9 through the public consultation and through the variety
10 of disciplines that we have included on the planning
11 team and we can effectively represent their concerns.

12 Q. What would be the problem, Mr.
13 Kennedy, with including other forest users?

14 A. In some planning teams we have made
15 provisions to include a broader range of people to act
16 in an advisory capacity and those individuals are
17 currently involved in reviewing plans and providing
18 input at an early stage in plan development.

19 We haven't seen the need to expand that
20 idea across the entire area of the undertaking, but
21 that revision is there for individuals that feel that
22 it's a vital part for their particular forest.

23 THE CHAIRMAN: But is that not always up
24 to the discretion of MNR?

25 MR. KENNEDY: Yes, it is.

1 THE CHAIRMAN: MNR is the final arbitor
2 as to who comprises the planning team?

3 MR. KENNEDY: The planning team and the
4 advisors, yes, Mr. Chairman, and as part of that we
5 have the four opportunities for the public consultation
6 which we feel --

7 MS. SWENARCHUK: Q. And, Mr. Kennedy,
8 within the term and condition No. 1 you haven't even
9 included the possibility of other forest users outside
10 of government agencies and industry?

11 MR. KENNEDY: A. That's correct.

12 Q. Now, can you indicate for us, or
13 perhaps you want to take some time and produce it, in
14 what areas of the province non-MNR and non-industry
15 individuals are involved in planning and how frequent
16 this is and what are the interests of the individuals
17 who are involved?

18 A. Yes, I could undertake to do that.

19 Q. Mr. Multamaki, I recall from looking
20 at your listing of individuals involved in the Red Lake
21 Plan that there was a reference to the local I think
22 president of NOTOA being in an advisory capacity, but
23 no other non-industry, non-governmental individuals.
24 Are there any Indian reserves in the area of this plan?

25 MR. MULTAMAKI: A. I think you're

1 mistaken when you say there was only one individual
2 that was involved in an advisory capacity.

3 If you turn to the terms and -- or the
4 terms of reference for the Red Lake Crown Plan, if I
5 could have a second to locate that.

6 MR. FREIDIN: Mr. Chairman, I am just
7 wondering - while Mr. Multamaki is looking - Ms.
8 Swenarchuk can clearly indicate what it is that she
9 wants Mr. Kennedy to answer. I know we can go back to
10 the transcript but sometimes even the transcript is
11 confusing and I want to make sure that we understand
12 what it is that she is requesting, what we are agreeing
13 to provide.

14 THE CHAIRMAN: I think she wants him to
15 prepare a list of the various plans that have been
16 prepared where are other than non -- sorry, other than
17 MNR and industry and government officials included on
18 the planning teams.

19 MR. FREIDIN: Or as advisors?

20 THE CHAIRMAN: As advisors. Who are
21 these other people or groups and what interest do they
22 represent? Is that the gist of it?

23 MS. SWENARCHUK: Exactly, Mr. Chairman.

24 MR. MULTAMAKI: Yes. Ms. Swenarchuk, if
25 you turn to page 115 of Book 5 in Exhibit 814 you will

1 notice that there is a list of potential resource
2 personnel and, in fact, the individual that you have
3 referred to is under the lands category in (c).

4 MS. SWENARCHUK: Q. Right.

5 MR. MULTAMAKI: A. Rob Mumford.

6 Q. Right.

7 A. Okay. If you look immediately
8 underneath that there is also an individual named Pat
9 Sayeau who is the Chairman of the Red Lake District
10 Chamber of Commerce.

11 Q. Yes, that's right.

12 A. He was in fact a potential resource
13 person and was used in this planning process.

14 Q. Mm-hmm.

15 A. In fact you may remember this
16 individual from our Dryden excursion.

17 Q. Yes, right.

18 A. Also if you look down under timber
19 you will notice that there are local timber operators
20 who are outside of the Ministry of Natural Resources
21 and, in fact, I think through these hearings I have
22 described the negotiations that have taken place with
23 individual tourist operators and so on with respect to
24 specific situations that occurred on the Red Lake
25 Crown.

1 Q. Yes. Well, Mr. Multamaki, I am not
2 surprised that you have timber operators there and that
3 would be consistent with the position that industry
4 representatives are consulted.

5 Yes, I neglected to mention Mr. Sayeau,
6 but then you will agree with me that the one clearly
7 non-timber interest is that of the local president of
8 NOTOA.

9 You haven't included, for example, any
10 local naturalists or non-consumptive tourist users or
11 Indian groups?

12 A. I think if you look under the local
13 timber operators and on our mailing list you will find
14 that in fact one of the local timber operators is the -
15 what is a good term for it - Indian Friendship Centre
16 in Red Lake itself. So in fact under local tourist --
17 or local timber operators, you do in fact have access
18 to a native organization. So I would say that in this
19 case you were mistaken when you --

20 Q. Okay. They got on the list because
21 they were a local timber operator, not because they
22 were an Indian organization in the area; right?

23 A. Yes, they got notified because they
24 were both, I would say. I don't think we made a
25 distinction between the two.

1 Q. Well, did you include on your
2 advisory team all the native organizations in the area,
3 Mr. Multamaki?

4 A. No, we did not. We notified them
5 through the mailing list, however.

6 Q. Right.

7 A. And in fact they had participated in
8 a variety of fashions over the years.

9 Q. And these individuals listed on page
10 115 are the resource people, they are not members of
11 the team?

12 A. That's correct.

13 Q. Now, on page --

14 THE CHAIRMAN: Ms. Swenarchuk, are your
15 questions directed as to whether or not non-forest --
16 non-timber users should be included on the planning
17 team or advisors or both?

18 MS. SWENARCHUK: I think both, Mr.
19 Chairman, and it may well depend on the individuals,
20 the area and what is available, but when we see a clear
21 inclusion of industry people as one user of the forest,
22 in our view, it's inappropriate that other forest users
23 are excluded from that very important opportunity for
24 input.

25 THE CHAIRMAN: Well, given the fact that

1 there are a variety of other uses of the forest in
2 terms of the non-timber forest users, and given the
3 fact I think that the numbers involved in planning
4 teams, per se, have to be kept to a reasonable number,
5 would you not take the position that it may not be
6 possible to include every other representative group as
7 a member of the planning team and, therefore, if you
8 are going to try and formulate some kind of rule, it's
9 either going to have to be flexible or others are going
10 to have to be included, essentially, as members of an
11 advisory team?

12 In other words, if you allow one group of
13 naturalists to become part of a planning team in a
14 particular area, what about all the others; do they
15 automatically get status as members of the planning
16 team?

17 MS. SWENARCHUK: Well, as I've said, Mr.
18 Chairman, I agree exactly, the concept should be
19 flexible and in some cases it may be appropriate on the
20 team and, in other cases, on the advisory team.

21 I really wish to focus your attention on
22 the fact that the term and condition proposed excludes
23 essentially all non-governmental/non-industry people
24 from either.

25 THE CHAIRMAN: Okay. And having made

1 that point, where do you want to go with it at this
2 point?

3 MS. SWENARCHUK: I have made the point.
4 I was moving on to a new area.

5 THE CHAIRMAN: Okay.

6 MS. SWENARCHUK: Q. And I can just read
7 the question, and I don't think you need to turn to it,
8 in the document, Mr. Kennedy, but --

9 MR. KENNEDY: A. Excuse me, which
10 document are you referring to?

11 Q. Excuse me, Volume I, page 139. I
12 don't think you need to turn it, I will simply read it
13 to you. The third paragraph indicates that:

14 "It has become common practice for the
15 planning team to keep minutes of their
16 regular meetings for inclusion in the set
17 of files."

18 Now, you've said it's common practice.
19 Is it a required practice, Mr. Kennedy?

20 A. Yes, I believe it is.

21 Q. And where would we find that
22 requirement?

23 A. We have indicated it through the
24 training programs. I don't believe we have it
25 specifically written down, if you would allow me to

1 check for a moment.

2 No, I don't believe we have written it
3 down as a requirement, per se, but we have talked to it
4 in our training sessions.

5 Q. Can anyone on the Panel tell me with
6 what consistency this is done across the area of the
7 undertaking, and what I am considering here is that
8 Book 5 to this plan includes minutes of the meeting
9 which I found very useful and helpful, and I think
10 other members of the public would in other plans. What
11 is the Ministry's position on this?

12 MR. FLEET: A. If I could, I would be
13 surprised if I were to be shown a plan where copies of
14 the minutes were not included.

15 THE CHAIRMAN: If that's the case, why
16 not include it as a required condition?

17 MR. KENNEDY: We certainly could consider
18 that, Mr. Chairman. It hadn't come to our light before
19 as it was viewed, as I was indicating, a common
20 practice, something that was occurring and wasn't
21 necessary to put into a requirement. We certainly
22 could consider that.

23 MS. SWENARCHUK: My next question relates
24 to one of our interrogatories, Mr. Chairman, and I have
25 prepared a package, if we could have an exhibit number.

1

THE CHAIRMAN: Exhibit 879.

2

----EXHIBIT NO. 879: Forests for Tomorrow,
Interrogatory Question No. 1,
4-12, 14-17, 24, 27-29, 31-33.
(Panel 15).

4

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MR. FREIDIN: Mr. Chairman, if I just
might just address one matter. Ms. Swenarchuk wasn't
aware of it, but I would like to make it clear to the
other counsel who are here.

9

10

11

12

We have been requested by OFAH and NOTOA
who aren't here all the time to arrange for them to get
copies of the exhibits as they go in, or we know they
want us to keep a pile. We have agreed to do that.

13

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But that would necessitate in fact -- we
think would necessitate other counsel, when they are
putting in exhibits, that they make sure that they have
enough for all the full-time parties who are here so
that if NOTOA isn't here we get their copy, otherwise
we get involved in a xeroxing exercise to try and
assist those other main parties,

20

21

22

So Ms. Swenarchuk wasn't aware of that
and I would just like to raise that now and make all
the other counsel who are here aware of that.

23

24

And I would be very appreciative if they
could keep that in mind.

25

MS. SWENARCHUK: Q. Now, Mr. Multamaki,

1 at page 144 of Volume I in the last paragraph of the
2 page you refer to the assembly of existing timber
3 records for use in the report of past forest
4 operations, and we asked an interrogatory on that
5 point, Interrogatory No. 24.

6 If you could just proceed by numbers, Mr.
7 Chairman, they are in that order.

8 We asked over what time period existing
9 timber records extended and you indicated in response
10 that they extend back to the mid-1960s but that,
11 however, the records prior to 1976 are in a variety of
12 formats and are incomplete when compared to the latest
13 records and requirements.

14 And I just want to clarify with you, Mr.
15 Multamaki, are you indicating then that in the existing
16 timber records that you looked at were largely records
17 from 1976 to the present?

18 MR. MULTAMAKI: A. Yes. The majority of
19 the records that I looked at when preparing the plans
20 came from that period, 1976 to 1986; however, there
21 were a variety of other records in various formats and
22 covering a range of items that did occur right back to
23 the mid-1960s and, of course, we looked at that and
24 evaluated it, placed in what we called the databank at
25 that point in time, and used it where we required it.

1 Q. Am I correct in understanding then
2 that the records, for example, of treatments and
3 operations prior to 1976 were not complete, so you
4 didn't have a complete picture of what had happened
5 prior to that date?

6 A. We didn't have a complete picture of
7 all of the activities that took place with respect to
8 the fact that prior to 1976 things like silvicultural
9 reports were filled out in a variety of fashions, there
10 were different map scales, there was different
11 information collected than we now presently collect,
12 things like harvest cut information came from older
13 cut-over mapping exercises, older timber licensing and
14 allocation files, all of which had changed or been
15 adjusted over the course of the last 20 or 30 years.

16 As a point in fact, one of the things
17 that we refer to in these past -- mid-1960 past records
18 is, for example, the FRI, the original 1966 FRI. That
19 is the sort of information as well that we are talking
20 about.

21 Q. What about regeneration treatment
22 success rates and -- or regeneration treatment results,
23 are the records from 1976 to the present more complete
24 than prior to 1976?

25 A. Yes, they are. You also have to

1 realize on the Red Lake Crown that there was not a
2 great deal of either harvesting or silvicultural
3 activity prior to about 1976. The unit was what we
4 would term relatively inactive and, therefore, I
5 wouldn't expect and haven't expected to find a great
6 deal of silvicultural information and so on for the
7 1960s, early 1970s.

8 Q. So your silvicultural records then
9 basically date from about 1976 to the present?

10 A. In the majority, or by volume or
11 mass, yes, they do. There is more total silvicultural
12 records in a more complete format after 1976.

13 I am not saying they didn't exist prior
14 to 1976, but they were in a number of formats and
15 didn't readily fit into the new timber management
16 planning system.

17 Q. If we could turn now to page 148, Mr.
18 Kennedy. Now, in the second full paragraph you have a
19 discussion of objectives and targets in the plans
20 indicating that a minimum requirement in the
21 preparation of a timber plan is objectives for harvest,
22 renewal, environmental quality, and integrated resource
23 management. And then you indicate:

24 "Other objectives may also be included
25 provided that they are consistent with

1 MNR's program objectives and have
2 associated targets and strategies which
3 can be supported by planned actions
4 identified in the timber management
5 plan."

6 Now, what type of objectives do you have
7 in mind there?

8 A. If I can just have a moment, please.
9 This statement was included to be somewhat open-ended
10 to allow other objectives related to timber management
11 to be included in the plan. One of the examples that
12 comes to mind is the possibility of including a
13 protection objective, one that would deal with the
14 maintenance activities if there was specific pest
15 problems being encountered on a management unit due to
16 the forest conditions and pest populations there at the
17 time.

18 Q. So there are other timber-related
19 objectives then?

20 A. Yes, that is what is being contem...

21 Q. And -- say that again?

22 A. I'm not sure I can. That was the
23 intent of the statement.

24 Q. All right. The first line of the
25 next paragraph indicates that:

1 "Management unit objectives will
2 generally remain the same from term to
3 term of the timber management plan."

4 Now, that's rather surprising to me, Mr.
5 Kennedy. It suggests to me that it doesn't matter too
6 much what the public input is on a plan, that the
7 objectives are going to remain the same, as you
8 indicate, from term to term?

9 A. It certainly wasn't meant to imply
10 that they would remain absolutely the same. I believe
11 the comment there is 'generally remain the same'.

12 The comment was made in relation to
13 trying to provide a better understanding of the
14 difference between objectives and targets, the levels
15 expected to be achieved over the five-year term, an
16 indication that objective statements usually are quite
17 broad in nature and are, in a form, goal statements,
18 something that is general that provides some management
19 direction for the management unit.

20 They certainly can change and public
21 input is one of the forms which can provide information
22 that may influence a change just as information in
23 report of past forest operations and general provincial
24 direction, if you will.

25 Q. Even with regard to timber

1 objectives, Mr. Kennedy, surely with the recalculation
2 of the MAD in each plan one should be prepared to see
3 changes in those objectives?

4 A. There is where the distinction comes
5 in, what I was referring to is the target levels. With
6 the recalculation of MAD we are able to go through a
7 series of steps which I've outlined in our evidence
8 that allows you to arrive at a target figure which we
9 attach to the objective. So very clearly we do expect
10 the target portion of an objective to change from term
11 and term and that's what this statement is reflecting.

12 Q. I see. At page 149, the first full
13 paragraph on the page --

14 A. Did you say the first full paragraph?

15 Q. That's right. You have indicated
16 that:

17 "Timber management plans now require
18 quantifiable and attainable targets for
19 both the harvest and renewal objectives
20 but the environmental quality and other
21 uses/users objectives are usually stated
22 in qualitative terms."

23 Now, I think the Board has heard Dean
24 Baskerville's comments on that, the use of qualitative
25 goals and objectives for other uses.

1 Does the Ministry have any plans to move
2 towards a quantitative approach to goals for non-timber
3 values and uses?

4 A. I would say at this time that it is
5 not being contemplated for a timber management plan,
6 no. And I would also suggest that there is some
7 difficulty in arriving at those kinds of factors that
8 would be used to provide quantitative measures for
9 those items, but certainly we are not --

10 Q. Have you ever looked at an American
11 U.S. Forest, National Forest Plan, Mr. Kennedy?

12 A. Yes, I have had the occasion.

13 Q. Right. Where quantitative goals for
14 values other than timber are required?

15 A. Yes, in their style of plan it is
16 required.

17 Q. Yes.

18 MS. SWENARCHUK: Mr. Chairman, I regret
19 that I failed to inform other counsel, because I forgot
20 myself, that I was going to refer to Baskerville's
21 report and I want to put a paragraph from that report
22 to the witness. It's at page 84.

23 THE CHAIRMAN: Are you going to read it
24 into the record?

25 MS. SWENARCHUK: I think that's the

1 easiest, Mr. Chairman.

2 THE CHAIRMAN: That's Exhibit 16?

3 MS. SWENARCHUK: That's right.

4 Now, I think a key question for all of
5 us, Mr. Chairman, is the extent to which Baskerville's
6 comments are relevant to this planning process and I am
7 going to give the Ministry the opportunity to respond
8 to one of his criticisms based on the other -- the
9 process.

10 Q. It is the second paragraph, Mr.
11 Kennedy, on page 84:

12 "The absence of a technically sound
13 approach to integration of timber with
14 non-timber values is a more serious
15 problem that will require considerable
16 change in the system if the desired level
17 of integration is to be achieved. The
18 approach used to integration of timber
19 with non-timber values is based on local
20 judgment with no objectively measurable
21 standards. The integration being
22 achieved may be good or it may not be,
23 but currently that is up to anyone to
24 decide for themselves. There is no
25 agreed upon way to assess the success of

1 integration. The approach to discovering
2 public opinion about planning issues is
3 open but it is being used to justify
4 actions or inactions rather than to
5 determine what values the public expect
6 from the resource so that management can
7 be designed to achieve those values to
8 the extent possible. Much of the
9 planning material in this area would be
10 better described as creative writing
11 about the resource than as a realistic
12 attempt to control resource development
13 over time to achieve objectively stated
14 values."

15 Mr. Kennedy, can you describe for us how
16 the current planning process responds to these
17 concerns?

1 timber management plan; so, as such, they are being
2 developed quite often for a different land base or
3 different area than is a timber management unit and
4 determined in their own right.

5 That information, though, is consulted in
6 the development of a plan and we feel that we are able
7 to incorporate the suggestions of those resource plans
8 and other resource programs into the preparation of a
9 timber management plan in a variety of ways.

10 First of all, we recognize their
11 existence in a formal way through discussions related
12 to other uses/users in our forum. Integrated resource
13 management in our objective statements in the plan is
14 an attempt to outwardly indicate to people that there
15 is recognition of those other values out there.

16 We then have incorporated into our
17 planning process a very detailed process which allows
18 us to address specific areas, and by this I am
19 referring to the values and features information and
20 the area of concern planning process, where we are able
21 to deal with those values and features, land uses and
22 users that are present on the land base and to ensure
23 that their concerns are addressed through the timber
24 management planning process and have provided what we
25 feel are ample and adequate opportunities for public

1 consultation throughout the development of the plan and
2 in the -- by indicating the kind of operations that
3 will occur.

4 And I believe in that fashion we have
5 addressed the substance of this paragraph.

6 THE CHAIRMAN: Excuse me one moment. Is
7 it not the case as well that in the timber management
8 planning process you must take into account guidelines
9 which have been developed with respect to other
10 programs such as tourism programs and moose guidelines,
11 et cetera, and in that sense you are obliged to include
12 the impact of objective statements in these other
13 resource programs even though it is not formally a part
14 of the timber management planning process?

15 MR. KENNEDY: Yes, Mr. Chairman, you are
16 correct. Implicit in those guidelines in the
17 application of the area of concern planning process is
18 recognition of those objective statements contained in
19 other programs.

20 THE CHAIRMAN: So if I might go one step
21 further, if you wrote those same objective statements
22 of these other programs into the timber management
23 planning process as a condition, as a formality, you
24 would in effect be arriving at the same place; wouldn't
25 you?

1 MR. KENNEDY: Yes.

2 THE CHAIRMAN: You have to take account
3 of them because they are provincial guidelines?

4 MR. KENNEDY: That's correct.

5 THE CHAIRMAN: And it is the same perhaps
6 as being an objective statement or it could be
7 considered the same, with respect to at least the
8 programs where you have these mandatory guidelines, to
9 be implicit in including objective statements within
10 the timber management planning process.

11 Am I going too far on that?

12 MS. SWENARCHUK: Well, Mr. Chairman--

13 MR. KENNEDY: I would offer caution on
14 those.

15 MS. SWENARCHUK: --if I can pick it up
16 there.

17 THE CHAIRMAN: Well, let's just get an
18 answer and then back to you, Ms. Swenarchuk.

19 MR. KENNEDY: I wouldn't suggest you are
20 going too far, but I would put some caution on that
21 suggestion in that it may be misleading to members of
22 the public and other reviewers that, in fact, those
23 objectives and associated targets have been developed
24 in the timber management plan and that clearly is not
25 the case.

1 We have been very specific on the
2 definition of the undertaking for the purpose of this
3 Class EA, we have tried to ensure that our timber
4 management planning process addresses that purpose of
5 the undertaking and, as such, those items are not
6 included.

7 But certainly by way of an informational
8 item it would be something worth considering, and I
9 would suggest that it would be necessary to indicate to
10 people information as to where those -- where that
11 information came from, its source, and indeed provide
12 some information of the land base if that was
13 applicable as to where those objectives were being
14 applied.

15 The reason I stress that is that, in many
16 cases, the land base or the area being planned in those
17 other resource plans is in fact different than the
18 timber management units and I believe that caution
19 would be helpful to a reader of that information.

20 MS. SWENARCHUK: Q. Well, Mr. Kennedy,
21 isn't it correct that even with the application of the
22 various provincial guidelines there is no way that a
23 member of the public - assuming that they are applied,
24 which I think is a considerable assumption - but
25 assuming that they are applied, it's not possible for a

1 member of the public to look at a timber management
2 plan and indicate and see clearly what level of
3 protection, for example, wildlife of particular species
4 are going to achieve in that plan; isn't that correct?

5 MR. KENNEDY: A. No, I would disagree
6 with you.

7 Q. An objective evaluation of a level of
8 protection? Where would we find that, for example, in
9 Mr. Multamaki's plan?

10 A. An objective -- excuse me, perhaps
11 you could reword that.

12 Q. Won't you agree with me that, for
13 example, even if the moose guidelines are being applied
14 within a plan, it is not possible to look at the plan
15 and get a clear statement from it of the level at which
16 the moose population is to be managed in that
17 management unit?

18 A. Are you indicating in terms of "x"
19 number of animals?

20 Q. Right.

21 A. Then you would be correct, in that
22 that kind of information is not contained in an
23 objective statement; however, there is information
24 related to that that often makes its way into a plan
25 through the background information that's assembled in

1 relation to area of concern planning or specifically
2 the populations would be recorded by way of number of
3 animals per square kilometre and some indication of the
4 high, medium and low densities of moose populations,
5 and that would affect the manner in which the area of
6 concern prescriptions are developed while following the
7 moose habitat guidelines for timber management.

8 Q. All right. If I understand you
9 correctly, you are saying that that may be in existence
10 in the supplementary documentation in some plans with
11 relation to moose. It's not however a requirement;
12 isn't that correct?

13 A. Specific reference to high, medium
14 and low densities, I think I would ask Mr. McNicol to
15 comment on that. But what I can advise you is that in
16 the timber management plan itself there is a recording
17 in Table 4.12, that table that deals with the summary
18 of the area of concern information, the results of
19 those deliberations, and I think that is what most
20 people are looking at.

21 Q. Mr. Kennedy, my question is quite
22 simple: Isn't it correct that there is no requirement
23 in this timber management planning process for -
24 speaking now of wildlife management - for the planners
25 to indicate in the plan the population levels either of

1 moose, or more particularly of any other species, that
2 they intend to achieve in this timber management unit
3 over the period of the plan?

4 A. Ms. Swenarchuk, I thought I had
5 agreed with you on that point earlier.

6 Q. All right. We are clear that there
7 is no requirement. Now, you went on to talk about the
8 information that may be there with regard to moose.

9 My next point is: Isn't it correct that
10 it is most unlikely that there will be reference to
11 population levels in any of these plans for any species
12 other than perhaps moose or deer?

13 A. Strict total population within the
14 forest management unit, you would be correct, that it
15 is unlikely that that number would appear in a plan.

16 Q. Right. So once again, getting back
17 to Dean Baskerville's concern about whether or not we
18 can assess the effect of the timber management on these
19 other values, it is not -- that assessment is not
20 evident in a timber management plan?

21 A. In a timber management plan, no.
22 There are other means by which Natural Resources tracks
23 the population levels of various species, particularly
24 moose, in the province. I believe some of that
25 information has been presented by Mr. McNicol actually

1 earlier in Panel 7 evidence and I would--

2 Q. Well, it was presented--

3 A. --suggest that you ask him to provide
4 some comments.

5 Q. --I think completely in Dr. Euler's
6 evidence, I agree with that, and we are not going to
7 repeat that for the Board's tedium.

8 Your position then, I take it, is that
9 these other mechanisms are how the Ministry assesses
10 these questions and those are quite separate from the
11 plan for any particular unit?

12 A. Yes.

13 MR. McNICOL: A. Ms. Swenarchuk, I may
14 be able to help you a bit with your question. I think
15 the fundamental point that has to be recognized is that
16 the timber management planning land base and the land
17 base upon which we set goals and objectives and targets
18 for wildlife are not coincident.

19 Q. Right.

20 A. The achievement of objectives or
21 targets for a timber management plan, vis-a-vis
22 wildlife, is not really the way we have set up our
23 policies and objectives and targets with regard to the
24 management of wildlife. So Mr. Kennedy made the point,
25 I am just re-emphasizing that --

1 Q. I think we are aware of that, and I
2 am directing my attention specifically to Dr.
3 Baskerville's observations about the timber management
4 plan, Mr. McNicol.

5 A. I understand.

6 THE CHAIRMAN: But isn't there also a
7 very wide divergence in what Baskerville is suggesting
8 and the fact that the province, for whatever reason,
9 has chosen featured specie wildlife management?

10 You are not going to go out and collect
11 individual data on a wide variety of species other than
12 the featured species that you have chosen which
13 supposedly encompasses, as we have heard, "x"
14 percentage of animals within the featured species
15 designation.

16 Is that not a fundamental difference in
17 terms of the way the Ministry has gone about their
18 wildlife management?

19 MR. McNICOL: Yes, you are correct, Mr.
20 Chairman.

21 MS. SWENARCHUK: That's certainly a
22 question we will reserve for Dr. Baskerville, Mr.
23 Chairman.

24 THE CHAIRMAN: Well, I am not trying to
25 suggest that perhaps that's what he is getting at, but

1 the Ministry has gone about their wildlife management
2 in a way which would not permit you to quantify each
3 and every specie because that's not the way you have
4 approached it. Is that a fair statement?

5 MR. McNICOL: That's a correct statement,
6 Mr. Chairman, for most species. As has been indicated
7 in previous evidence, we do quantify some species.

8 THE CHAIRMAN: No, but the vast majority.
9 I mean, there is thousands of species out there.

10 MR. McNICOL: You're correct.

11 THE CHAIRMAN: You are picking a certain
12 featured type of specie or within a category of
13 featured specie and you may be taking some specific
14 numbers on those, but you are relying upon that
15 approach to cover all other species which would occupy
16 similar habitat and that kind of thing?

17 MR. McNICOL: The majority of other
18 species, yes, sir.

19 THE CHAIRMAN: Okay.

20 MRS. KOVEN: I don't think that was
21 particularly the point of Ms. Swenarchuk's question
22 though.

23 MS. SWENARCHUK: Thank you, Ms. Koven.

24 MRS. KOVEN: And the question is really,
25 when the public comes to view this material, what can

1 they possibly get out of it. And in terms of the
2 concept of featured species, it's certainly practical
3 and sensible in lots of respects, but it might not mean
4 very much to the public.

5 And so the question is really: What are
6 they seeing on the paper in front of them, and how do
7 they get access to that.

8 MS. SWENARCHUK: Thank you.

9 Q. Mr. Multamaki, if we could turn to
10 page 151 of Volume I, please.

11 MR. MARTEL: What page was that, Ms.
12 Swenarchuk?

13 MS. SWENARCHUK: 151.

14 MR. MARTEL: Thank you.

15 MS. SWENARCHUK: Q. You've indicated in
16 the second full paragraph on the page that:

17 "The access strategy provides for access
18 to overmature timber so that it can be
19 harvested before deterioration."

20 And if I can just stop there. Can you
21 indicate for us what you mean by deterioration in this
22 context?

23 MR. MULTAMAKI: A. Yes. When I talk
24 about deterioration what I'm talking about is the fact
25 that as trees, a stand of trees or trees individually

1 age, the natural process is such that as they get older
2 the cull levels or the amount of rot becomes --
3 increases and, in fact, they deteriorate from a quality
4 aspect from industry's viewpoint.

5 Q. Now, has this deterioration -- which
6 I assume has to do with volume loss; is that correct?

7 A. Yes, it's a combination of volume
8 loss and quality loss.

9 Q. Right. Has that been quantified in
10 any way? Do you have yield curves which indicate the
11 point at which various species begin to deteriorate and
12 lose volume?

13 A. There are provincial yield curves
14 that -- you are referring to Plonski's yield tables, as
15 I understand it, is that the direction you are heading
16 in?

17 Q. No, I'm not.

18 A. Oh.

19 Q. I am asking whether you were using
20 quantified information in the implementation of that
21 approach?

22 A. I guess if you are asking -- we
23 didn't use growth in yield studies, which I think is
24 what you are attempting to refer to. We did not have
25 access to local yield tables or growth in yield studies

1 on the Red Lake Crown Management Unit. However, I
2 think it's pretty obvious to everyone that as a tree
3 gets older the level of deterioration increases prior
4 to its death.

5 Q. Could we turn to 152 now, please.

6 MR. FREIDIN: I am sorry, what page?

7 MS. SWENARCHUK: 152.

8 THE CHAIRMAN: Ms. Swenarchuk, would you
9 find a convenient place for a break this morning.

10 MS. SWENARCHUK: Yes.

11 THE CHAIRMAN: Here?

12 MS. SWENARCHUK: Yes.

13 THE CHAIRMAN: Very well, we will break
14 for 20 minutes.

15 Thank you.

16 ---Recess taken at 10:00 a.m.

17 ---On resuming at 10:30 a.m.

18 THE CHAIRMAN: Thank you. Be seated,
19 please.

20 MR. CAMPBELL: Mr. Chairman, counsel have
21 been attempting to arrange a time when they could get
22 together to discuss the import and what actions could
23 be taken in light of your comments at the close
24 yesterday. It would appear that the only time that is
25 realistic at this point is Tuesday after everyone comes

1 into Thunder Bay.

2 Obviously Ms. Swenarchuk is in the middle
3 of cross-examination, which is not an ideal time and is
4 obviously vitally concerned with this matter, and all
5 of us have obligations that can't be put aside at a
6 moment's notice.

7 So, as I say, we have suggested that we
8 get together around noon on Tuesday, and we are going
9 to ask the Board to postpone the start of Tuesday until
10 two o'clock to give us enough time to do more than
11 consume a sandwich and exchange pleasantries.

12 Whether we will be able at that point to
13 report anything to you in particular, I do not know. I
14 think given that we are now under cross-examination of
15 this most important panel, the Board, I would suggest,
16 should give us some flexibility in terms of timing and
17 should not be discouraged if it takes perhaps more than
18 a meeting or two, because there may be matters on which
19 we have to go back to clients and get instructions.

20 However, we are quite willing to keep the
21 Board posted on that and we wanted to let the Board
22 know that, subject to these timing considerations being
23 satisfactory, the matter was receiving some attention.

24 THE CHAIRMAN: Thank you, Mr. Campbell.

25 ---Discussion off the record

1 THE CHAIRMAN: Very well, Mr. Campbell.
2 The Board is prepared to allow counsel to discuss
3 amongst themselves measures to address the Board's
4 concerns raised yesterday between twelve and two. We
5 will then come back to Ms. Swenarchuk's
6 cross-examination for the rest of the afternoon, and we
7 are suggesting that the scoping session for the next
8 panel, which was supposed to be held I believe at one
9 o'clock on Tuesday, will be moved to the evening of
10 Tuesday.

11 One of the problems that the Board has
12 experienced is that we haven't had all of the
13 statements of issue requested from the parties yet
14 produced from all the parties. We will be mentioning
15 what will happen in the future if our time lines with
16 respect to those are not met.

Very briefly, that party will not have the opportunity to cross-examine the panel if the statement of issues are not in and they have not participated in the scoping session as they are expected to, if they fall into that class of category of party.

23 We will deal with the scoping session in
24 the evening and we will also deal with the results of
25 counsels' deliberations with respect to the Board's

1 concerns and we will indicate to you at that time what
2 measures the Board may put into place almost
3 immediately.

4 We will certainly listen to your
5 concerns -- sorry, to your submissions and hopefully
6 much of what the Board will be considering doing in
7 terms of action will accord with what counsel on their
8 own have arrived at.

9 MR. CAMPBELL: And I take it in all of
10 this, Mr. Chairman --

11 THE CHAIRMAN: And if it requires --
12 sorry, if it requires going back to your clients for
13 some clarification, if necessary, you can do that at
14 some point and perhaps address the Board at a later
15 point.

16 But I think everybody should take it as a
17 given that the Board is absolutely serious about moving
18 this hearing along and we have, unfortunately - and I
19 don't want this to cloud your deliberations in any
20 way - have absolutely no faith whatsoever in the
21 parties' ability to indicate how long they are going to
22 be and give any kind of reasonable projection which has
23 any basis in fact.

24 It is unfortunate, but we have arrived at
25 the stage where we are going to make sure that this

1 matter proceeds expeditiously and we have been very
2 lenient, as you are well aware, up to this stage in the
3 proceedings and we are going to be very vigilant in the
4 future.

5 MR. CAMPBELL: I only have two comments
6 to that, Mr. Chairman. The first is that I think there
7 are many counsel before you who have been quite
8 reliable in their estimates and --

9 THE CHAIRMAN: Well, I am not going to
10 single out, the Board is not going to single out any
11 particular counsel.

12 MR. CAMPBELL: I understand that.

13 THE CHAIRMAN: We are just saying,
14 overall we have been given all kinds of estimates as we
15 have gone along as to when we can expect the
16 proponent's case to be finished. The most recent, just
17 going back a few weeks ago, was November the 15th, then
18 moved on to December the 1st, now some time in January,
19 and it is going to end.

20 MR. CAMPBELL: I don't disagree with
21 that, Mr. Chairman, but I think it is only fair to
22 point out that individual counsel can only take
23 responsibility for their individual estimates and there
24 are many before you who have given you quite accurate
25 estimates.

1 THE CHAIRMAN: That may well be and we
2 certainly are not going to, as I say, criticize various
3 counsel or various parties by name individually but,
4 overall, we are going to arrive at some kind of basic
5 understanding between the Board and the parties to this
6 proceeding that, for the remainder of the case, it is
7 going to proceed in a fashion different from the way it
8 has proceeded up to this point.

9 MR. CAMPBELL: The second item that I
10 wish to just note, Mr. Chairman, is that I certainly,
11 in advising my client on this matter, intend to tell
12 them that none of the remarks which the Board makes or
13 the sediments which it is expressing in any way are
14 intended to detract from the comments the Board has
15 also made with respect to the importance of the
16 cross-examinations on this particular panel, and I
17 suppose if I'm mistaken in that, I would sooner know it
18 now than prior to giving them that advice.

19 THE CHAIRMAN: No, I think you are
20 essentially correct in your understanding. The Board
21 views this panel as certainly important, it sums up the
22 planning process that is before us. By the same token,
23 we understand that this is a panel on which all parties
24 have a vital interest and the cross-examination phase
25 is, of course, important to all parties in opposition

1 and the Board doesn't, and won't, and hasn't to this
2 point taken an approach to unduly restrict any party in
3 terms of their cross-examinations, nor do we intend to
4 in the future.

5 It is just that we are going to endeavor
6 to manage this hearing in terms of the overall length
7 of time it is taking and in the manner in which the
8 evidence is going to come in in the future in a
9 slightly different manner.

10 MR. CAMPBELL: Of course, none of us have
11 any argument, I would expect, with the Board's desire
12 to manage the hearing, but I am particularly concerned
13 about this panel though.

14 And if I could just go back to precisely
15 what you said, you indicated that this panel sums up
16 the planning process and it certainly is our submission
17 that it does much more than that, it takes all of the
18 bits and pieces of information in the previous panel
19 and explains how the planning process integrates all of
20 that information and applies it in making decisions
21 and, in my submission in any event, it will be clear
22 that that is much more than a summing up of the
23 previous evidence; it is how all of these various
24 things that we have been talking about, for lo these
25 many months, are brought together for decision-making

1 purposes, and it is the results of those decisions that
2 will determine whether environmental protection,
3 wildlife and other objectives are actually met when
4 this undertaking is approved, and --

5 THE CHAIRMAN: Well, Mr. Campbell, all I
6 can say is the Board has been here from day one on, we
7 have heard every word of evidence produced in this
8 hearing and we are quite cognizant of, I think, what
9 this panel means, no matter how I might have flippantly
10 characterized it.

11 MR. CAMPBELL: Well, it is one area of
12 the case where I think it is important for all of us to
13 be perfectly clear as to the importance on which we
14 place it, and we certainly do on this panel.

15 In any event, I think I need not take it
16 farther, Mr. Chairman.

17 THE CHAIRMAN: Okay. Well, I think we
18 will expect to address these issues on Tuesday evening,
19 probably before the scoping session, that our comments
20 can be taken in the context of the scoping session that
21 will follow immediately thereafter.

22 MR. CAMPBELL: Mr. Chairman, Ms.
23 Swenarchuk has wisely pointed out to me - and I don't
24 know why I didn't think of it myself - but it seems
25 quite clear that the Board has some particular course

1 in mind and, generally speaking, it is sort of helpful
2 sometimes to have an indication of what one is going to
3 respond to instead of trying to invent one thing when
4 there is some thinking going in another direction, and
5 some indication of that might give -- these discussions
6 could sometimes do with a little focus, and if you have
7 something in --

8 THE CHAIRMAN: More than just these
9 discussions could probably do with a little focus.

10 MR. CAMPBELL: I don't disagree, but it's
11 these particular discussions I happen to be worrying
12 about at the moment.

13 If the Board saw fit to give us some
14 indication of what its thinking was in order to provide
15 that focus I, speaking for myself, think that would be
16 helpful, but I leave that with you.

17 THE CHAIRMAN: Well, I don't think the
18 Board at this point, because we haven't quite frankly
19 arrived at the bottom line yet ourselves - we will be
20 doing some very serious thinking over the weekend - as
21 to what measures we feel we can adopt and, to use the
22 proverbial language, not cross the line.

23 MR. CAMPBELL: Thank you, Mr. Chairman.

24 THE CHAIRMAN: But we would like you to
25 apply your minds to the same problem.

1 MR. CASSIDY: Mr. Chairman, one final
2 matter of clarification. Are we going to be sitting on
3 Friday the 13th?

4 MS. SWENARCHUK: Why not?

5 MR. CASSIDY: And the reason I raise that
6 is, I am not superstitious, it's Mr. Campbell who
7 apparently is unsure as to whether or not we are
8 sitting that day. I believe we are, but Mr. Campbell
9 says we're not.

10 MR. CAMPBELL: I had understood we were
11 not and certainly, in my case, I have made some other
12 arrangements on that understanding.

13 THE CHAIRMAN: No, unfortunately next
14 week we will not be sitting on the Friday,
15 notwithstanding that the Monday is -- we won't be
16 sitting either.

17 Now, we are going to sit later though,
18 probably during the days we are sitting, to make up
19 some of the time.

20 MR. CASSIDY: Thank you, sir.

21 MR. FREIDIN: And we start at two o'clock
22 on the Tuesday?

23 THE CHAIRMAN: Tuesday at two o'clock. I
24 apologize, Ms. Swenarchuk, we will get back to you.

25 MS. SWENARCHUK: It's a pleasure to be

1 doing this cross-examination in the face of the Board's
2 intense enthusiasm at this moment.

3 I have one further --

4 THE CHAIRMAN: It doesn't mean that we
5 are any less attentive in terms of your examination.

6 MS. SWENARCHUK: Just less enthusiastic.

7 Q. One further clarification point. I
8 am not sure if the undertaking that I asked for
9 previously specifically included that I am looking for
10 membership on either the planning team or the advisory
11 committees.

12 MR. KENNEDY: A. That was my
13 understanding, Mrs. Swenarchuk.

14 Q. Mr. Kennedy, at page 152 of Volume I
15 in the first paragraph, second last sentence:

16 "The selection of a particular
17 silvicultural system requires
18 consideration of a number of factors
19 including the existing species, its
20 silvics and stand structure, the desired
21 future crop species, and product and site
22 factors such as climate, soils and site
23 types."

24 Would you agree with me that
25 silvicultural operations are usually planned for areas

1 consisting of more than one stand?

2 A. Yes, I would.

3 Q. And at page 154, in the second
4 paragraph -- it's a long quote, but I think we need it
5 all to understand the context:

6 "Sometimes the differences in site or
7 conditions under which any particular
8 combination of ground rule prescriptions
9 would be employed are so slight that it
10 is not possible to finalize the
11 preferred combination until the area has
12 been harvested and inspected. Subtle
13 differences in soil texture can mean the
14 difference between success or failure in
15 seeding. The management units in the
16 areas to be managed in any one five-year
17 term are large and often inaccessible
18 until harvested."

19 So are you indicating that in such a
20 context soils and other environmental factors are not
21 known until after the harvest is done?

22 A. In some situations the soil
23 conditions are not known until access is provided to
24 the block and that can be coincidental with the harvest
25 operations, yes.

1 Q. Well, the sentence doesn't indicate
2 access, it says until the area has been harvested and
3 inspected, so I assume from that you are indicating
4 that in these areas the inspection comes after the
5 harvest; is that correct?

6 A. It's specifically referring to the
7 time at which the final silvicultural prescription is
8 produced for an area is certainly following -- is most
9 often following the harvest, yes.

10 Q. Okay. So in those cases the industry
11 and the Ministry would not be planning in advance, for
12 example, to use protective measures on particular site
13 types or silvicultural systems such as modified
14 cutting?

15 Presumably -- I think the paragraph goes
16 on to talk about the cost of acquiring information.
17 And so my question is this: I take it, then, you are
18 not in a position to plan those kinds of operations in
19 advance?

20 A. No, I wouldn't go that far. I was
21 speaking generally. There are situations where it is
22 possible to determine the appropriate renewal
23 treatments in advance and to tailor harvesting
24 operations to meet those conditions, and here I was
25 thinking of it in those cases where natural

1 regeneration methods are prescribed.

2 Quite often in those natural regeneration
3 methods such as allowing for seeding of black spruce,
4 it's less important to have detailed information about
5 the soil conditions because you are able to make some
6 observations as to the nature of the stand that was
7 there from information such as aerial photography plus
8 inventory information, and that is always supplemented
9 with what field information may be available, such as
10 that obtained through operational cruising, if that is
11 available for a particular management unit.

12 Q. Okay. In the kinds of sites that you
13 are referring to in this paragraph though, I take it
14 that the renewal prescriptions, if there are to be any,
15 are not determined until after the area has been
16 harvested?

17 A. I would say that certainly the final
18 prescription is not prepared until after the area is
19 harvested to allow the forester and technical staff the
20 opportunity to observe what the on-ground conditions
21 are following that harvest.

22 There are a variety of factors which I
23 think we have outlined in earlier evidence,
24 particularly in Panel 11, that affects the choice of
25 treatment that you would not be able to gauge, I would

1 say, accurately enough in advance of the harvest.

2 Such items as the amount of slash that
3 would be left on the ground would be directly related
4 to the density of trees, the degree of branchiness on
5 the particular trees, as well as the kind of logging
6 method that is employed on a particular area.

7 So there's a combination of factors that
8 our ability to predict is -- in advance of the harvest
9 is somewhat subjective, and it's best to rely on the
10 observations following harvest to finalize the
11 prescriptions.

12 Q. But this paragraph seems to be
13 talking about sites, site types and soil textures--

14 A. The paragraph --

15 Q. --as opposed to slash.

16 A. The opening sentence which refers to
17 site or conditions, the conditions was a general
18 comment that refers to any site conditions and that
19 includes soil character -- or could include soil
20 characteristics as well as, for lack of a better term,
21 I believe I used the term site conditions in our
22 evidence in Panel 7 and brought that term forward here
23 to describe the range of items that are encountered on
24 a site at the time of development of a prescription.

25 If I have misled you, I do apologize.

1 Q. No, I think that is consistent. Now,
2 if we could look at page 157, please, with regard to
3 maximum annual depletion.

4 A. Could I -- are you referring to MAD,
5 maximum allowable...

6 Q. Pardon me?

7 A. Are you referring to MAD, M-A-D?

8 Q. That's right.

9 A. The maximum allowable depletion?

10 Q. Right. Is that not what I said?

11 A. I wasn't sure. I wanted to be sure.

12 Q. Page 157, paragraph 3 near the end of
13 the page, lists as one of the primary variables in the
14 mathematical calculation of MAD the amount of area that
15 is being reforested to desired species or working group
16 or regeneration success.

17 Now, do you mean there areas planned for
18 regeneration or actual past success in regeneration
19 efforts?

20 A. In this case we are referring to a
21 regeneration per cent and that per cent is to be
22 determined from past success rates, if you will,
23 renewal success rates and, as such, we are saying: Do
24 not make predictions of a nature that you hope to do
25 better or do worse in the future, but to rely on

1 current information to indicate what the success rates
2 have been to that point in time.

3 Q. Okay. So with regard to the MAD
4 calculation then, what happens to areas that are not
5 successfully regenerated?

6 A. Those areas are not included in the
7 MAD land base, if I can use that. The area that
8 contributes to the calculation excludes those areas
9 that are not free to grow and they remain out of the
10 MAD calculation in the beginning, and the percentage of
11 the area that is depleted that is not successfully
12 regenerated -- perhaps the best way to think of it is
13 it's subtracted for each successive calculation and is
14 put into, what I call, a holding capacity, it's
15 accumulated over time.

16 Q. And would you agree that some of that
17 land base actually goes out of production?

18 A. There is an element of the land base
19 that goes out of production and that is the percentage
20 that we reflect in roads and landings for those areas
21 that do not -- or, sorry, those areas that are in
22 features that make them no longer available for forest
23 production.

24 There is an element of the areas that are
25 not satisfactorily regenerated which may take longer

1 than the expected years to regenerate and that will
2 reflect in the number of years to free to grow.

3 There's a portion of that land base that may take
4 longer, and the way which we have addressed that is
5 through this handling of the land base so that the
6 calculation removes that percentage.

7 The only way in which an area can come
8 back into the MAD land base is to have had a free to
9 grow determination to ensure that that area is now a
10 healthy forest that is expected to continue and
11 contribute to the forest in future.

12 Q. So is it your position then that
13 there has not been the experience of productive forest
14 land having gone out of production for an extended
15 length of time, or to this date permanently?

16 A. I want to be very careful in how I
17 answer that question in that what I have observed is
18 areas move or switch from one working group or forest
19 unit to another depending on the kind of regeneration
20 that occurs on the site, and I do not characterize that
21 as going out of production because those areas may be
22 judged free to grow in another working group, and also
23 there are areas that I have observed that have taken
24 longer than expected to return to that level, perhaps
25 as much as 20 years from the areas that I have

1 observed, but I can say that I have not observed nor am
2 I aware of any areas that have gone out of tree
3 production totally.

4 Q. Okay. But the regeneration then to
5 another working group would affect the sustainability
6 of yield from the original working group; would it not?

7 A. It would have an effect in that there
8 would be a smaller land base on which to predict or
9 simulate the kind of forest conditions that are going
10 to arrive over time, but I would also say that is not
11 static, in that you would also need to account for
12 accruals or those areas that are reaching free to grow
13 from those other areas.

14 So the way I think of it myself is that,
15 in some ways, there is an overall balance, but I do not
16 have --

17 Q. Theoretically?

18 A. Theoretically. I do not have numbers
19 to support that, but that is the concept that I view
20 that in.

21 Q. Can we look at page 158, the second
22 paragraph. The sentence I am referring to is that:

23 "Timber companies must determine how much
24 volume can be recovered from the area
25 harvested."

1 MS. SWENARCHUK: I have an interrogatory
2 on that point. This is the one interrogatory that was
3 not included in the previous package, Mr. Chairman.
4 (handed)

5 THE CHAIRMAN: Exhibit 880.

6 ---EXHIBIT NO. 880: Forests for Tomorrow
7 Interrogatory. (Panel 15)

8 MS. SWENARCHUK: Q. And just referring
9 to the first part of this interrogatory in which we
10 asked what variation in the volume cut from the
11 management unit can be expected over a rotation by
12 using the average age method.

13 And you indicated that it's not possible
14 to provide a general answer to that part of the
15 question, that the volumes vary depending on the
16 initial age-class distribution, et cetera, and that the
17 results of the MAD calculation provide a forecast of
18 the amount of area available for harvest over the
19 rotation and that the volume variability will vary from
20 one unit to another.

21 So I just want to be clear then that this
22 calculation then will not indicate what volume is
23 sustainable over the unit over time; is that not
24 correct?

25 MR. KENNEDY: A. When I prepared this

1 answer I was thinking specifically of the MAD model
2 that was used in conjunction with the Red Lake Plan and
3 that particular model did include -- or had area bases
4 only, it did not include any volume estimates.

5 There are other varieties of the model
6 where it's possible to provide volume information
7 associated with that area, and the emphasis that I was
8 placing here in the answer in the interrogatory was on
9 the fact that Ontario uses the area control method for
10 regulation and that the timber management plan itself
11 goes into the details on the volume for the first five
12 years and doesn't require a recording in any form of
13 the volume that will be derived from that land base in
14 the future.

15 Q. Thank you. Could we turn to page 172
16 and, Mr. Multamaki, the question is for you, in the
17 last paragraph, and it's with regard to silvicultural
18 ground rules.

19 "Those silvicultural ground rules
20 describe a range of acceptable
21 silvicultural practices for site
22 conditions encountered on the management
23 unit and are designed to ensure that the
24 environment is protected."

25 Now, speaking -- if I could ask you to

1 cast your mind back to when you were a unit forester,
2 Mr. Multamaki. Can you tell me how in, your opinion,
3 the silvicultural guides protect the environment?

4 MR. MULTAMAKI: A. I think you meant to
5 say the silvicultural ground rules--

6 Q. Excuse me, the silvicultural ground
7 rules.

8 A. --protect the environment.

9 Q. Yes.

10 A. Yes. I think when you look at the
11 way that the silvicultural ground rules were developed
12 for the Red Lake Crown and, as I understand it for the
13 other plans, a key element in that is the fact that,
14 yeah, we review accepted silvicultural practices in the
15 boreal forest and I applied and looked at silvicultural
16 guides which were in existence at the time, and you
17 have to realize that, as a unit forester, site
18 productivity, for example, is a key element in the
19 development of these silvicultural ground rules.

20 For example, the operations that I looked
21 at, the silvicultural operations and harvest cut
22 operations that I looked at within the silvicultural
23 ground rules were accepted practice within the
24 province, they had a relatively long history of being
25 applied to sites that were similar to this. I had in

1 fact talked to a number of other unit foresters,
2 specialists and so on about those types of practice,
3 their effects on the site and so on.

4 During the course of my professional
5 career and academic training we deal quite often with
6 or regularly with research articles on site
7 productivity and it's relationship to operations that
8 may occur on those site types.

9 Q. Can I interrupt you for a moment.
10 You said that you considered their effects on the
11 sites. Can you indicate for me what type of effects
12 you were particularly interested in or what type of
13 effects you considered?

14 A. I think, in general, the best answer
15 I can give you to that is anything that would affect
16 the ability of the unit forester to regenerate that
17 area back to the species that was being promoted on the
18 area or the projected working group that you wanted to
19 return it to and, you know, that could encompass a wide
20 range of things; anything from compaction to erosion,
21 to the range of site impacts, I guess, that could occur
22 during the course of these operations.

23 Q. Did you turn your mind to things like
24 nutrient cycling and hydrological change following on
25 harvest?

1 A. Yes, I guess what we are getting into
2 here is more research oriented applications or
3 whatever, rather than the operational aspect of
4 actually growing a new crop for the future.

5 Certainly there are a number of research
6 articles that have come out on things like that and
7 foresters -- in general, unit foresters and specialists
8 do discuss those aspects. I am not sure that there is
9 any definitive answers out there at this point in time,
10 but certainly we do look at those considerations.

11 Q. Well, I was going to ask you this
12 later, but let's follow it up right now. With regard
13 to nutrient cycling, for example, the Board has heard
14 discussion in the literature regarding the effects of
15 various types of logging.

16 Could you indicate whether there is any
17 full-tree logging done in your unit and, if so,
18 approximately what percentage of the harvest is done by
19 that method?

20 A. When I was a unit forester on the Red
21 Lake Crown there was very little full-tree harvesting.
22 Offhand I can't remember a single operation that was
23 full-tree. There was tree length, which left the top
24 branches and so on on the site, but full-tree was just
25 starting to become an industrial operation at the time

1 that I was the unit forester there; i.e., prior to
2 1987.

3 Q. And in your new function with
4 Buchanan Forest Products, are you functioning as a
5 forester in the same area, same management unit area?

6 A. I have very limited involvement but,
7 yes, we do have an operation there.

8 Q. And is there an increase in the
9 amount of full-tree harvest being carried out in that
10 area?

11 A. I'm afraid I'm unaware of that since
12 I haven't been back to Red Lake on a regular basis.

13 Q. Is that a harvest method that you
14 would advocate for this area?

15 A. I certainly wouldn't discourage it.
16 I think I would look at the specific areas, the
17 specific sites that are involved in the harvest and I
18 would consider full-tree harvesting on a number of
19 those sites.

20 Q. Could you indicate for which, of any
21 sites, you would not suggest full-tree harvesting, site
22 types?

23 A. I think we are moving into site
24 types. Where I would perhaps limit the use of
25 full-tree harvesting is where I wanted the seed source

1 to remain on the area for regeneration purposes, you
2 know, that is where I would consider doing it.
3 However, I would also at the same time examine
4 alternative methods of regenerating that area through
5 the use of artificial techniques. So, you know, there
6 is a balancing that is taking place there.

7 Q. Do I understand from that then that,
8 in your view, the site types that exist in the Red Lake
9 Crown Management Unit are all types on which full-tree
10 harvesting would be an acceptable harvest method, the
11 sites within your experience?

12 A. You are asking me a question I have
13 to think about but, as a general answer, yes.

14 Q. Please do.

15 A. I would consider full-tree harvesting
16 on the sites that I have shown. I think there may
17 be -- if I can have a second to look through, there may
18 be one or two site types here that we have shown in the
19 ground rules that are not subject to full-tree
20 harvesting.

21 Q. Where are you looking, Mr. Multamaki?

22 A. I'm going through Exhibit 814, pages
23 60 -- Table 4.12 starts at page 60, or Table 4.11.

24 MR. CAMPBELL: Mr. Chairman, I think
25 Table 4.11 actually starts at page 53 and if Mr.

1 Multamaki could address it right from page 53, it would
2 save me a question.

3 MR. MULTAMAKI: I apologize.

4 THE CHAIRMAN: Thank you.

5 MR. MULTAMAKI: I think, Ms. Swenarchuk,
6 if you look on page 53 there is, for example, black
7 spruce FRI working group Sb1 which shows shortwood or
8 tree length and does not show full-tree.

9 Again, that had to do at the time with
10 the seed source. If you notice as well under the
11 silvicultural system we list strip cut; i.e., what was
12 intended here was that the lowland black spruce areas,
13 very poorly, organic -- very poorly drained organic
14 soils, they're wet, would be strip cut and shortwood or
15 tree length harvesting would be utilized to leave the
16 seed source on the site.

17 MS. SWENARCHUK: Q. But aside from the
18 seed source requirement, would that be a site that you
19 would consider would not suffer any environmental
20 degradation through full-tree harvest?

21 MR. MULTAMAKI: A. By removal of the
22 branches, limbs and so on, yes. Those sites generally
23 are harvested in the winter time; i.e., everything is
24 frozen solid, it's difficult under those conditions to
25 have what we would consider rutting and so on.

I would expect that there will be little degradation of the site from mechanical operations and the key here was that we were directing the seed -- the shortwood and full-tree to that site for seed purposes; i.e., leave the slash on there for seed purposes, not environmental concerns or degradation of the site.

Q. What about the nutrient cycling impacts of removal of the slash; you wouldn't consider that a problem? Those are the sorts of questions that I wonder if you've considered in the context of my overall question of: Are there any sites for which you would not recommend -- site types for which you would not recommend full-tree harvest for reasons other than seed source?

A. At this point in time, no, I don't think so.

MR. DAVISON: A. Could I just say a few words on that same subject? As you are aware, the province has undertaken to prepare a new set of silvicultural guides, and I believe that was discussed in previous panels, and it is still ongoing that we are preparing those new silvicultural guides. As principal author of one of those guides, I would like to just speak to them just for a second.

Q. Which species are you referring to?

1 A. I'm talking about the poplar working
2 group. The province undertook to standardize the table
3 of contents for all new silvicultural guides. One of
4 the sections in that deals with environmental
5 considerations, deals with wildlife considerations and,
6 in particular, under environmental considerations it
7 talks about this nutrient drain, it talks about
8 full-tree harvesting, it deals with that subject to
9 give the foresters that extra added information.

10 Along with that there is reference
11 material attached to it that includes numerous sources
12 of research information that's also of assistance to
13 the field people.

14 Q. Thank you, Mr. Davison. Could we
15 look at page 184, please, and this follows the section
16 which describes the area of concern planning process in
17 the Red Lake Plan and at the top of page 184 we see a
18 note that:

19 "The consideration of compliance
20 monitoring for areas of concern was not
21 a requirement at the time this plan was
22 produced."

23 And my question for, I guess Mr. Kennedy,
24 is: Is it the intention of the Ministry to require
25 amendments to all the completed plans in which

1 compliance monitoring has not been in effect to
2 implement compliance monitoring in those plans?

3 MR. KENNEDY: A. It is not our intention
4 to amend the timber management plans and include an
5 outline of the compliance monitoring program. However,
6 it is our intention I believe - and I would want
7 members in Panel 16 to verify this - it is our
8 intention to begin compliance monitoring on all
9 management units upon the completion of their
10 deliberations as to what form that compliance
11 monitoring will take place.

12 By that I mean the manner in which the
13 inspections will be carried out and the manner in which
14 the information will be recorded that is observed on
15 those inspections, and that's in addition to the forms
16 of compliance monitoring that we have in place now.

17 I do believe it's intended to be applied
18 across all management units, but it's not our intention
19 to amend the timber management plans that are in
20 existence now, rather than to concentrate on those
21 plans that are being developed to reflect the kind of
22 compliance program that would be anticipated for each
23 one of those areas of concerns or groups of areas of
24 concern.

25 Q. I'm sorry, I can't hear the last part

1 of your...

2 A. It is our intention to concentrate
3 our effort on ensuring that the plans that are being
4 produced now do contain reference to the compliance
5 program that will be used on those management units to
6 deal with the individual areas of concerns or similar
7 groups of areas of concern.

8 Q. Now, one general question with regard
9 to MAD planning, and we asked an interrogatory on this.
10 question based on the Red Lake Plan.

11 It's Question No. 11, and I can just read
12 it, it's very brief. We said that numerous areas of
13 concern contain reserved areas, and the question was
14 whether these reserves are kept in the FRI land base as
15 production forest, and the answer is that:

16 "Generally reserves will be removed from
17 the MAD land base at the time of renewal
18 of the timber management plan."

19 So do you have Question No. 11, Mr.
20 Kennedy?

21 A. Yes, I do.

22 Q. So then we conclude that they are
23 left in the land base for the purposes of this plan?

24 A. If you are speaking of what occurred
25 in the Red Lake Plan now and you are asking how the

1 reserves that were determined in that plan were
2 included, or are you asking how were reserves from
3 previous planning efforts handled prior to the MAD
4 calculation?

5 Q. This is my question: What is the
6 Ministry practice with regard to how reserves within an
7 area are treated in the MAD calculation?

8 Are they removed from the land base for
9 the purpose of the calculation or are they, as is
10 apparently the case with this plan, left in the land
11 base during the period of the plan?

12 A. Okay. During the period of the plan
13 the areas are removed from the MAD land base, and by
14 that what I am referring to is the MAD land base is
15 updated through the assembly/analysis of background
16 information, that information is used in the MAD
17 calculation, that MAD calculation level is used to
18 guide the selection of stands, and once those stands
19 have been selected, they're identified on the map, and
20 the values that are within that area are determined,
21 and through the area of concern planning process
22 specific prescriptions are developed for those values
23 which can result in a reserve prescription.

24 Q. Right.

25 A. That area then that is in the reserve

1 prescription is subtracted from the area that has been
2 selected for harvest resulting in an area that becomes
3 the plan harvest area or available for harvest. So in
4 that sense they are removed from the MAD land base for
5 the area that is being planned for the five-year term.

6 Q. Okay. Let me just be clear. Is the
7 the MAD recalculated with the amount of land base
8 represented by no-cut reserves removed from it, or are
9 they simply not within the allocated area?

10 A. Okay. In that point there is a
11 danger of confusing two things. Perhaps if I was to
12 continue and say then that upon the completion of that
13 plan the intention is for these reserves that come out
14 of production for a long-term nature would be
15 subtracted from the MAD land base as part of the
16 updating procedures and would not contribute to the MAD
17 land base for the second term plan.

18 Q. Right. Okay, but during the first
19 term plan, if I understand correctly, the MAD is not
20 actually recalculated to take out the amount of land in
21 reserves; is that correct? They are not allocated,
22 they are taken out of the allocated land base, but the
23 MAD itself is not recalculated?

24 A. That is correct, it is not
25 recalculated. The allowance is made for their

1 existence by not harvesting them and ensuring that that
2 area is accounted for. There would be a very minor,
3 almost infinitesimal amount of area associated with
4 that recalculation.

5 Q. Doesn't that vary from unit to unit?

6 A. It would vary from unit to unit, but
7 I'm thinking of the - although I don't have an
8 average - but I'm thinking of the average amount of
9 area that would be contained in a reserve prescription
10 across all working groups would be distributed by the
11 representative working group distribution on the unit
12 and then in the MAD calculation divided by the
13 rotation, I believe the number would be almost
14 negligible.

15 Q. All right. So it would be your
16 position then that leaving those reserve allotments,
17 shall we say, in the MAD for the first term of the plan
18 does not unduly inflate the MAD?

19 A. That's correct.

20 Q. All right. One last brief question
21 on this volume. If we can turn to page 320, and this
22 is the review of the Lac Seul Plan. It's the second
23 last paragraph in the comments section:

24 "Modification of logging methods to
25 reduce or eliminate site preparation can

1 qualify for payment under the FMA. If
2 the company's intent is to do this
3 it must be clearly laid out and
4 negotiated prior to implementation and/or
5 inclusion in a plan."

Now, I think we've had previous discussions about whether there can be payment for modified operations within the FMA system, and my understanding from all of those was that there can't be. Can someone clarify this paragraph, please?

11 A. Yes, we have had numerous
12 discussions. In Panel 11 I recall some discussions
13 that I was involved with in particular. In those
14 discussions we have always tried to be very clear and
15 open on our interpretations of your question.

What we are indicating here is that if there is a cost that is incurred by a company that would offset a cost that would otherwise be incurred in the site preparation, that there is an opportunity to discuss that and determine if it's appropriate to pay for that cost to the company in lieu of paying for higher costs through the site preparation aspect.

23 So in this sense we are still paying for
24 renewal treatments, which is the Natural Resources'
25 obligation under those forest management agreements,

1 and I do not take that to be the same as the question
2 that you've asked about paying for modified harvesting
3 operations in general, such as paying an amount for
4 strip cutting per se.

5 Q. Well, I don't want to quibble over
6 words either, I just want to know what the practice
7 and -- or to put it another way, what the opportunity
8 is?

9 Isn't it possible that strip cutting
10 could be one of these techniques that could be used for
11 regeneration which might eliminate some site
12 preparation costs, in which case I'm asking: Would it
13 not be eligible for compensation?

14 A. It's certainly not the kind of
15 treatments that are contemplated in this fashion.

16 Q. Okay. What type of treatments are
17 contemplated then?

18 MR. FREIDIN: I'm sorry, I didn't catch
19 that, this is not the type of...?

20 MR. KENNEDY: Treatments that were
21 contemplated in regard to the clauses of this nature.

22 MS. SWENARCHUK: Q. What type of
23 treatments are we looking at then?

24 MR. KENNEDY: A. An example doesn't come
25 readily to my mind. I believe Mr. Groves has one in

1 mind.

2 MR. GROVES: A. Yes. From my experience
3 in the Chapleau District dealing with the Spruce Falls
4 forest management agreement we had something called
5 CLAG which is an acronym called: careful logging
6 around advanced regen, and that's where the company
7 went to an additional effort in their harvesting
8 practices to protect the advanced spruce trees which
9 were already established and that was, the company then
10 got paid for that operation.

11 Q. Okay. Any other types of methods
12 that anyone thinks this covers?

13 (no response)

14 Don't all speak at once.

15 MR. FLEET: A. Ms. Swenarchuk, if I
16 could. I'm not familiar in intimate detail with the
17 previous testimony, but in the northern region right
18 now we are in fact in a preliminary stage of pursuing
19 discussions with some of the companies. For
20 silvicultural purposes, we are pursuing the possibility
21 of paying for the various different types of
22 silvicultural treatments which would be categorized as
23 silvicultural modified harvest cutting.

24 Q. Okay. And --

25 A. It's at a preliminary stage and my

1 experience in those discussions is that we are talking
2 about generally the range of silvicultural -- of
3 modified silvicultural operations.

4 Q. Could you just tell us briefly what
5 you mean by that? You mean strip cuts?

6 A. We haven't finalized the discussion
7 in terms of saying this particular treatment or that,
8 but it could be we are discussing, for example, strip
9 cuts, yeah.

10 Q. What do you mean by the full range,
11 can you just list them quickly?

12 A. By listing them I wouldn't suggest
13 they are all part of the discussion, but season
14 cutting.

15 Q. Okay, the ones that are part of --

16 A. Strip cutting, block cutting.

17 Q. Those are part of the discussion?

18 A. They have -- yes.

19 Q. Okay. And this is part of a current
20 negotiation of an FMA; is it?

21 A. No, it's a preliminary discussion in
22 northern region as an effort on the part of both the
23 Ministry and the industry to, if you will, enable us to
24 achieve a greater reforestation target with equal or
25 less dollars. Instead of planting every particular

1 site we may be able to afford some savings by providing
2 an incentive to pursue these lesser cost regeneration
3 methods.

4 Q. Right. Now, when do you expect these
5 discussions to reach a decision stage?

6 A. Given everybody's predictive ability
7 to date, I don't know. I would think that perhaps we
8 would be hoping to include this type of a payment
9 provision in an FMA that is soon up for negotiation.
10 So I would say hopefully perhaps in one of the next
11 FMAs negotiated in northern region, but it may not be;
12 it may be next year, it may be the year after.

13 Q. Okay. And do you have any knowledge
14 of whether the same discussion or the same possible
15 strategy is being contemplated by other regions?

16 A. I do not.

17 Q. Does anyone here know the answer to
18 that? Mr. Kennedy?

19 MR. KENNEDY: A. I can tell you I'm
20 aware of the efforts that Mr. Fleet is talking about
21 and I believe it has spawned discussion right across
22 the province as to the possibilities of going that way,
23 and that main office staff are very interested in the
24 results of the discussions that are taking place in the
25 northern region, and I can also advise that main office

1 staff are also looking for an opportunity to review any
2 recommendations that come out of northern region and
3 they would be subject to a main office approval, if you
4 will, prior to any implementation of such items.

5 But at this point it's quite clear that
6 we have not to date contemplated that kind of a payment
7 and we are, as always, open to discussions on subjects
8 such as that.

9 Q. Mr. Groves?

10 MR. GROVES: A. I can confirm that in
11 the northwest region during last -- we renegotiated a
12 couple of forest management agreements that we did have
13 similar kinds of discussion as the northern region but
14 nowhere near as advanced.

15 MRS. KOVEN: To whom are these financial
16 incentives directed, is it to the equipment operators
17 who are actually doing the harvesting, the small
18 contractors who take more care in that operation, or is
19 it strictly to the large FMA holder or the company?

20 MR. KENNEDY: I think that is very much a
21 part of the discussion as to: If we were to embark on
22 such a program, how would it be administered and to
23 what level and what kind of operations would qualify.

24 So that is part of the discussion and I
25 would suggest that it would be necessary to examine if

1 it would apply on small licences right through to large
2 licensees.

3 MR. MARTEL: What are the advantages to
4 the province?

5 MR. KENNEDY: What are the advantages to
6 the province?

7 MR. MARTEL: Yes.

8 MR. KENNEDY: Although I haven't been
9 party to the discussions, I believe the very simple
10 underlying principle is that to date the province has
11 seen it appropriate to pay for renewal costs in forest
12 management agreements.

13 The suggestion is that there may be ways
14 of ensuring that there is efficient use of Crown funds
15 to ensure adequate levels of regeneration and there is
16 a suggestion that if harvest operations are modified in
17 some form, to assist in the attainment of that
18 regeneration, and if there is an extra cost incurred by
19 logging companies to undertake that modification, that
20 there should be some financial incentive for them or
21 some repayment for that additional cost in that the
22 Crown is gaining the benefit of the regeneration level.

23 I believe, Mr. Martel, that would be a
24 correct capsulization of the proposals that I've heard
25 discussed.

1 THE CHAIRMAN: Mr. Kennedy, the Ministry
2 has not taken the approach with the forest industry
3 that the user pays; is that correct?

4 You do have certain dues and charges, et
5 cetera, but it is not based upon a principle that you
6 are using the resource and, therefore, replacement cost
7 of that resource, if that's the objective, be paid for
8 by those who use it? And is it correct that the fees
9 or dues or rates charged by the government on FMA units
10 are not in any way geared towards that principle?

11 MR. KENNEDY: Yes, you are correct in
12 that, first of all, the user is paying in a form in
13 terms of the -- directly in terms of the Crown dues,
14 the Crown charges that are applied for the amount of
15 volume of wood that is harvested. There are other
16 Crown charges that the forest companies and operators
17 are required to pay.

18 You are also correct in that those
19 charges are submitted to the Treasurer of Ontario and
20 form part of the consolidated revenues and are not
21 earmarked, if I could use that phrase, back to a
22 particular forest management unit for renewal efforts
23 and so --

24 THE CHAIRMAN: But I guess my point is:
25 They are not related in amount to any particular costs

1 of regeneration or replacing the resource, they are set
2 independently on other criteria; is that not the case?

3 MR. KENNEDY: Yes, that is the case, that
4 the forest companies are not responsible for the costs
5 of regeneration on their units and that is borne by the
6 Crown.

7 THE CHAIRMAN: And has there been any
8 discussion as to why this is so and why it isn't
9 predicated in terms of relating the charges to the
10 actual costs of regeneration or replacing the resource?

11 MR. KENNEDY: That I would have to claim
12 ignorance on. I'm not aware if there has or has not
13 been discussions on matters such as those. I would
14 indicate that the levels of the organization that I
15 have been working at have not made it -- have not given
16 me an opportunity to be aware of such information.

17 MS. SWENARCHUK: We will be hearing more
18 about this question down the road, Mr. Chairman.

19 THE CHAIRMAN: Without a doubt.

20 MS. SWENARCHUK: Q. With regard to Mr.
21 Martel's question, why would this be a benefit to the
22 province, isn't this really a question of, Mr. Kennedy,
23 lesser cost regeneration through the use of changed
24 harvest practices; isn't that really the net benefit?

25 In other words, you avoid having the very

1 expensive option of planting by harvesting in a
2 different method in order to encourage natural
3 regeneration?

4 MR. KENNEDY: A. As I was indicating in
5 my understanding of the suggestions that have come
6 forward is yes, that is the case.

7 Q. Okay. Mr. Multamaki, if we could
8 turn to Reference 3A or Exhibit 814, the Red Lake Plan,
9 page 115 of Book 1 - I think I have got the book number
10 right - and the last line of the page refers to:

11 "This shortfall in regeneration..."

12 which "...occurs in the black spruce
13 working group and is largely responsible
14 for the 65% regeneration success..."

15 rate used "... in the MAD calculations
16 (Appendix C)."

17 Reference 3A, the Red Lake Plan, which is
18 what we will be using largely from now on, page 115,
19 and the last line refers to the shortfall in
20 regeneration due to the 65 per cent regeneration
21 success rate on black spruce...

22 Now, the black spruce regeneration here
23 is occurring, as I understand it, on harvested areas;
24 is that right?

25 MR. MULTAMAKI: A. It's not to the best

1 of my recollection, it is occurring on all areas and,
2 in fact, that would taken into account not only harvest
3 areas, but areas of what would be called barren and
4 scattered or NSR and had received treatment and
5 certainly they would be coming back into the black
6 spruce working group or the spruce working group, so it
7 would cover a range of areas regardless of their
8 previous history.

9 But not to mislead the Board or yourself,
10 the bulk of those areas would be on harvest areas, you
11 know, within the previous five, ten years.

12 Q. Okay. I'll come back to that
13 question in a minute. You mentioned the barren and
14 scattered areas - and I am going to discuss a little
15 later what that consists of - but, as I understand from
16 the plan and from the interrogatories, a fair amount of
17 that barren and scattered areas are the areas resulting
18 from the two fires, No. 7 and 14; is that right?

19 A. That's correct, a large portion of
20 the barren and scattered in fact is a result of the two
21 recent fires, 7 and 14.

22 Q. 67,000 hectares out of 83 or
23 something like that. Okay. We will cover that later.

24 Are you saying, I just want to be clear,
25 that the 65 per cent black spruce regeneration rate

1 then also is the rate achieved both on the harvested
2 areas and on the barren and scattered burnt areas,
3 or --

4 A. No. The barren and scattered burnt
5 areas are essentially what Mr. Kennedy referred to as
6 that holding category, they haven't reached free to
7 grow status at this point in time.

8 The 65 per cent that I am referring to is
9 of the area -- the amount of area depleted, 65 per cent
10 is coming back in. That is a very simplistic
11 explanation, but...

12 Q. Right. Okay. So in that 65 per cent
13 category, we are not talking about black spruce regen
14 on the burnt areas because they are not a free to grow
15 status yet, you are talking then about black spruce
16 regen largely cut-overs? I think that is what you said
17 a minute ago.

18 A. Generally, yes.

19 Q. Okay. So...

20 MR. KENNEDY: A. If we could caution
21 though, the intent of that figure is to record the
22 regeneration successes of any area that has been
23 depleted in the past by natural or by -- by natural
24 means or by harvest. I believe that it's somewhat...

25 Q. That may be, Mr. Kennedy, but my

1 concern with Mr. Multamaki who wrote this was, in his
2 specific areas, what was the cause of the depletion
3 that contributed mostly to this figure.

4 All right. So if we are talking, or to
5 the extent that we are talking cut-over areas here, can
6 you tell us what silvicultural method was used on those
7 areas?

8 MR. MULTAMAKI: A. Yes, I could refer
9 you to the silvicultural ground rules which generally
10 cover the range of methods that have been used in the
11 past and are proposed to be used during this plan
12 period.

13 Q. Okay.

14 A. But they generally include site
15 preparation, tree planting, modified harvest cuts or
16 artificial -- or, sorry, natural seeding and so on.
17 Also, in the section of the plan there is reference to
18 newer techniques in the way of cone shelters or seeding
19 shelters and so on which, in fact, we hope will
20 increase the amount of spruce regeneration.

21 Q. Right. That is looking forward.
22 Going back to my question now, which is to what extent
23 is this 65 per cent black spruce regeneration rate
24 recorded on previously harvested areas. To be more
25 specific, can you tell us to what extent -- and I

1 assume that most of those areas were harvested by a
2 clearcut method; is that correct?

3 A. That's right.

4 Q. Now, if we look at page 117 of the
5 volume, which is Table 4.19, we see the subtotal for
6 natural regeneration in this area is about 1,246
7 hectares and your reply to our interrogatory No. 17
8 indicated that the species to be regenerated naturally
9 on this area is spruce.

10 A. That's correct.

11 Q. Now, if you are getting 65 per cent
12 regen on areas that were clearcut in the past, do you
13 expect to do -- well, let's put it this way: What
14 percentage regen success do you expect to get on the
15 areas that are left to natural regeneration, those
16 1,246 hectares?

17 A. In an effort to clarify this, you
18 have confused me a little bit, perhaps we should go to
19 the back of page 74 of the Timber Management Planning
20 Manual. I think you are really dealing with two or
21 three different processes here, I guess is the term I
22 am looking for. If you look on the back of page 74,
23 the blue page in the Timber Management Planning Manual,
24 it lays out --

25 Q. Could you just hold it for a second.

1 The page number again?

2 A. Page 74, it's a blue page.

3 Q. Okay.

4 A. Okay. And under regen success it
5 states that -- it's halfway down the page, under No. 3,
6 it states that:

7 "The area expected to reach free to grow
8 in a prescribed time period (i.e. years
9 to free to grow)..."

10 And that is the number used in the MAD
11 cal -- MAD calculation:

12 "...expressed as a percentage of the area
13 harvested."

14 Now, you are talking about the amount of
15 area harvested prior to this plan and regeneration
16 success was not 65 per cent in the past, the past
17 period as compared to harvest levels up to 1986.

18 For example, if you were to take the
19 harvest level up to 1986 and the regeneration success,
20 it would not be that 65 per cent. If you look at the
21 MAD --

22 Q. What would it be?

23 A. Offhand I am not sure. I don't have
24 an indication of that. The 65 per cent is a comparison
25 of the regeneration program to black spruce expressed

1 as a percentage of the new MAD level for this plan
2 period and obviously that MAD has been increasing as a
3 result of the MAD calculation.

4 So, in fact, what has happened is in the
5 spruce working group the MAD level has in fact
6 increased, so the percentages you are comparing are
7 apples and oranges.

8 Q. All right. So what you are saying
9 then is that, if I understand you correctly, the 65 per
10 cent is not a measure of what previous black spruce
11 regeneration results have been on the unit; is that
12 right?

13 A. That's correct.

14 Q. Okay. Can you tell us what they have
15 been? By 65 per cent, what do you mean; 65 per cent of
16 the area regenerated is expected to reach free to grow
17 status; right?

18 A. In this five-year plan period?

19 Q. Right.

20 A. 65 per cent of the areas harvested
21 will come back to spruce -- in the black spruce working
22 group we are talking here, will come back to black
23 spruce.

24 Q. Okay. Well, what sort of success
25 rates have you had with black spruce regeneration on

1 the unit up to now?

2 A. Using the same comparison; i.e., past
3 MAD levels, they would be higher. I don't have an
4 actual number, but they would be higher and the
5 rationale behind that is as you increase the MAD -- the
6 level of spruce regeneration has not, to the best of my
7 recollection has not increased substantially, but the
8 MAD level has as a result of the average age
9 calculation. So our past success levels obviously
10 would be higher as a percentage.

11 Q. Okay.

12 A. And I should make another point here
13 that I don't know that Mr. Kennedy completely covered,
14 and it relates to these regeneration success levels.

15 Yes, we show 65 per cent in the black
16 spruce working group, however, it doesn't mean that
17 other 35 per cent suddenly disappears and is never seen
18 again. It in fact is doing a number of things, as Mr.
19 Kennedy has pointed out.

20 In the Red Lake Crown case it's
21 converting to other working groups such as poplar -- or
22 forest units poplar/birch, working groups such as jack
23 pine and, in fact, it is not simply disappearing, there
24 is a change back and forth between those working
25 groups.

1 Q. But you're concerned; aren't you, to
2 improve this 65 per cent regeneration figure for black
3 spruce?

4 The following paragraphs I think
5 indicate -- in other paragraphs, which I won't be able
6 to put my finger on at the moment, you've said in the
7 plan that there has to be a major increase in the
8 regeneration effort?

9 A. Yes. On page 116 I think that is
10 what you are talking of the Exhibit 814 where I state
11 there's three methods for achieving additional spruce
12 regeneration, and I guess the thought there or my
13 thoughts at the time were to try to maintain the spruce
14 working group at the existing levels or the MAD level
15 at that time, and it was almost as simple as that.

16 I also don't want to give the impression
17 that that 65 per cent means that the spruce working
18 group will disappear over time. In fact what we are
19 saying is if that situation were to continue for a full
20 rotation period, 65 per cent, I would expect that it
21 would remain relatively level after that.

22 It simply means we are able at this point
23 in time to regenerate 65 per cent of the spruce working
24 group; it doesn't mean it's going to go down every five
25 years or every rotation by an additional 35 per cent,

1 if you see what I mean.

2 We are capable at this point in time of
3 maintaining the spruce working group at 65 per cent of
4 what we are harvesting, but it doesn't mean, for
5 example, that that stuff is just disappearing, it's
6 converting to other working groups and, in fact, the
7 spruce working group - maybe to use the term sustained
8 loosely - sustained at 65 per cent of what it is today.

9 And if you remember those line graphs
10 that I showed with the MAD calculations, when you see
11 it flattening out, in fact that flattens out. Under
12 the existing assumptions of today and the existing
13 program today it would flatten out in perpetuity.

14 MR. MARTEL: And what would you do to
15 increase it--

16 MR. MULTAMAKI: Well, I pointed out
17 during this --

18 MR. MARTEL: --re that message that
19 you've pointed out on page 116?

20 MR. MULTAMAKI: That's right. Those are
21 things that we can look at doing in this five-year plan
22 period. Now, certainly over the rotation period when
23 we start talking 90 years for black spruce, I am
24 certain that we don't need to sit on our hands for 90
25 years and see this process continue to take place. I

1 am sure that there are a number of things that have
2 taken place.

3 If you look back 90 years, we are really
4 talking the 1800s, we have made a number of
5 improvements in silviculture since the 1800s.

6 MS. SWENARCHUK: Q. Mr. Multamaki, you
7 don't know that it's going to improve in the future
8 either, all you know is what you are going to be
9 able -- or all you have planned for or looked at right
10 now is what you are able to do over the next five years
11 and it may or may not improve in the future; isn't that
12 correct?

13 MR. MULTAMAKI: A. I would say that what
14 I've done here with those three steps is placed our
15 feet on the path to improving that and in fact I would
16 except that my predecessor and the forester that
17 replaced me will in fact improve on that, and during
18 the next five years or five years after that we will do
19 substantially better.

20 Q. Do you have any data to support that
21 suspicion? These are undoubtedly useful techniques,
22 but all I am saying to you is that right now you don't
23 have a projection for the future that shows an
24 improvement over that 65 per cent figure; do you?

25 A. Well, I think I can give you an

1 indication, if you look at - I don't have the Exhibit 1
2 Part B, the second book - in the annual work schedule
3 in fact you see 100 hectares in there for direct
4 seeding with site preparation. That in fact falls
5 exactly under this - 1, 2, 3 - natural seeding for
6 black spruce, that was my intent.

7 And if you are looking for cold hard
8 numbers, there is 100 hectares of black spruce that in
9 fact is an addition to the actual program that was
10 planned at the annual work schedule level and, in fact,
11 it is a demonstration that we intend on improving on
12 that 65 per cent.

13 Q. But you don't know at this point what
14 the success rate of that operation will be, that is all
15 I am trying to establish; isn't that correct?

16 THE CHAIRMAN: How can you ever know, Ms.
17 Swenarchuk, what is going to happen in the future until
18 you get there?

19 MS. SWENARCHUK: Well, I think it's
20 important, Mr. Chairman, to distinguish between efforts
21 and success rates, particularly when we are looking at
22 long-term wood supply.

23 And I think there is a confusion here
24 between what is going to be attempted, which is
25 unarguably positive, and what the success rates will be

1 and when we are looking at sustainability of wood
2 supply over time. I think we have to look at those two
3 things quite separately.

4 MR. KENNEDY: Ms. Swenarchuk, I share
5 your concern and I would like to advise the Board that
6 we have designed the planning process to take that
7 concern into account.

8 The regeneration success figures is one
9 of those items that we review at the time of scheduled
10 renewal of the plan and we do account for any changes
11 in that success rate, be they positive or negative, and
12 we use that factor to recalculate the maximum allowable
13 depletion, thereby updating our predictive abilities --
14 I am sorry, our predictions of the future of the
15 forest.

16 But we feel that we are being very honest
17 in this situation where we are not making a stab in the
18 dark as to what those success rates could be, but we
19 are relying on past results to guide us in our
20 predictions and we are adjusting each five years and
21 providing more credible results on the basis of our
22 experience.

23 MR. GROVES: If I could just add to that.
24 As a supervisor in Red Lake District and following up
25 on Mr. Multamaki's initial comments on here, those

1 trials were put in. I do not have the data today for
2 those trials, but the unit forester who is writing --
3 who is starting to write the next Red Lake Timber
4 Management Plan, by the time he gets to setting his
5 criteria for MAD, will have some initial data on some
6 of these new techniques for black spruce and might have
7 a new number for regen success.

8 MS. SWENARCHUK: Q. Which we would
9 expect. Again, as a member of the public looking at
10 this plan and attempting to understand what is going to
11 be done, Mr. Multamaki, could we look for a moment at
12 pages 100 and 117.

13 Now, if we look at page 117, again we
14 already established that you recorded there that you
15 will do 1,246 hectares of natural regeneration and your
16 response to the interrogatory indicated that that will
17 be black spruce and the techniques listed there include
18 strip cut and seed tree cut.

19 Now, I would assume that those are
20 modified harvest techniques; are they not?

21 MR. MULTAMAKI: A. Yes, they are.

22 Q. Okay. So then, if we can look back
23 at page 100, which is the black spruce working group
24 forest unit, under the planned harvest, modified
25 cutting, we see a total of 171 hectares. Can you

1 explain the difference in those figures?

2 A. Yes, I can. In fact what you are
3 looking at is you are looking at modified harvest
4 cutting in areas of concern; it has absolutely nothing
5 to do with silviculture, the two numbers compare in no
6 fashion whatsoever.

7 Q. Okay. So 4.15 is areas of concern,
8 modified harvest?

9 A. That's correct. Really that's
10 generated out of the area of concern package, not Table
11 4.19.

12 Q. Okay. Going back to page 117 the
13 1,246 hectares, and this table comes from the Timber
14 Management Planning Manual; does it not?

15 A. Yes, it does, from the one that was
16 in existence at the time that this plan was prepared.

17 Q. Okay. And it refers to strip cut,
18 seed tree cut and shelterwood cut. Are there any other
19 types of cuts that, in your estimation, would amount to
20 modified harvesting cuts?

21 A. In areas of normal operation?

22 Q. Yes.

23 A. Not in the boreal forest and not as
24 we would use it in Red Lake.

25 MS. SWENARCHUK: This might be a good

1 time to break for lunch, Mr. Chairman.

2 THE CHAIRMAN: Very well. We will return
3 at 1 :30.

4 ---Luncheon recess taken at 12:00 p.m.

5 ---On resuming at 1:30 p.m.

6 THE CHAIRMAN: Thank you. Be seated,
7 please.

8 MS. SWENARCHUK: I will start with
9 another exhibit, Mr. Chairman. (handed)

10 THE CHAIRMAN: That will be Exhibit No.
11 881.

12 ---EXHIBIT NO. 881: Forests for Tomorrow
13 Interrogatory (Panel 15).

14 MS. SWENARCHUK: Q. Mr. Multamaki, you
15 recognize these computer runs from your own MAD
16 calculations for this unit; do you not?

17 MR. MULTAMAKI: A. Yes, I do.

18 Q. And specifically looking at the two
19 pages that have to do with projected cuts of jack pine
20 and black spruce. And if we could start with the jack
21 pine, we see that the growth period for jack pine is 75
22 years. So that growth period is the rotation age; is
23 it not?

24 A. Yes, it is.

25 Q. Okay. Now, do you agree with me then

1 that if we look down at cuts 9 to 14 - and you find
2 those numbers on the extreme left column, Members of
3 the Board - cuts 9 to 14, at cut 9 we are cutting into
4 the 61-80 year age-class, as well as the 41-50.

5 In any event down to cut 14, you are
6 cutting in age-classes of 61-80 years; is that not
7 correct?

8 A. No, in fact you are cutting into the
9 41-60.

10 Q. Also, yes.

11 A. Okay. Yeah, that's correct, if you
12 are...

13 Q. And so your current MAD projection
14 for jack pine available in the future involves cutting
15 in these cuts under rotation age; is that not correct?

16 A. Yes.

17 Q. And if we look at the black spruce
18 table which is the next page, we have a rotation age
19 here of 90 years, and if we look at cuts 12 to 17 at
20 least, we are cutting again at that point in rotation
21 age under -- in age-classes under the rotation age; is
22 that not correct?

23 A. Under this scenario, yes.

24 Q. And also if we look at the third
25 column from the left on this page which measures the

1 NSR 5, and just for the assistance of the Board, I
2 think we'll take a look at the definition of that which
3 I will read out.

4 It is at page 172 of the Timber
5 Management Planning Manual:

6 "NSR class 5 are those areas which have
7 not regenerated to satisfactory
8 stocking..."

9 That is Ontario's standards:

10 "...or as specified in the management
11 plan and cannot be regenerated using
12 existing technology except at costs
13 greater than one hundred per cent over
14 current treatment costs. This category
15 will most commonly apply to cut-overs
16 with very heavy residual content or very
17 difficult terrain, wetness or access
18 problems. This class can be sub-divided
19 where costs are excessive due to lack of
20 access or costs are excessive due to
21 terrain or technical problems."

22 Now, if we look at the column of NSR 5
23 for black spruce; isn't it correct, Mr. Multamaki, that
24 the amount of NSR 5 increases throughout the rotation
25 age calculated here from 544 hectares at the beginning

1 to a total of over 35,000 hectares at the 20-year
2 cut -- or at the 20th cut?

3 A. Yes, however, there are some
4 qualifications in that number. First, you are assuming
5 that nothing will change, that for the next 100 years
6 the forest management system that is presently in place
7 on the Red Lake Crown Management Unit will be exactly
8 the same then as it is today.

9 You are -- also, there is no provision in
10 that NSR 5 or in this computer program to change the
11 regeneration success level and that is really what is
12 leading to that increase in NSR 5 is the 35 per cent
13 that is not coming in in the black spruce working
14 group.

15 Should that level increase from 65 to 70,
16 to 80 at any point in time, this scenario in fact will
17 be updated and will have to change, and that is part of
18 the reason for the five-year update intervals. If
19 something should change, in fact, those numbers will
20 become obsolete and, in fact, be replaced by the new
21 situation that is on the Red Lake Crown.

22 Q. Right. I think we understand that,
23 Mr. Multamaki, but what I want to just clarify is that
24 the maximum annual depletion for this unit for this
25 management plan was set based on this projection with

1 the regeneration rates as you know them now, and if
2 those regeneration rates continue at their present rate
3 this is the long-term scenario; is that not correct?

4 A. Not completely. The idea is there,
5 but the fact is that once you reach rotation age, in
6 fact, the regeneration success under this existing
7 scenario will be one hundred per cent, if you get my
8 meaning, is once we have gone through that first ro --
9 that 35,000 is a computer-generated number. This
10 simply reflects the fact that there will always be a 65
11 per cent regeneration success level.

12 In fact, if we continue to do exactly the
13 same amount of silvicultural work in the black spruce
14 working group as we do today forever, it will after one
15 rotation age level out and essentially come to that
16 sustained level, in fact, we will be returning as much
17 as we cut.

18 Q. All right.

19 A. And it would be a hundred per cent.
20 So it shows here that, in fact, it's a declining land
21 base, but it will only decline for the one rotation.

22 Q. And one rotation is 90 years?

23 A. That's correct.

24 Q. So over the next 90 years you have a
25 declining wood supply of black spruce?

1 A. Assuming nothing changes.

2 Q. That's right, exactly. Assuming
3 nothing changes. And may I continue, please.

4 Now, there have been a number of -- you
5 have indicated a number of factors that you think have
6 to change in the plan. You have referred to, for
7 example, genetically improved stock, but looking at
8 this scenario for black spruce, when the cutting below
9 rotation age starts at about cut 12, that is 60 years
10 from now; is it not?

11 A. That's correct.

12 Q. You don't expect to have genetically
13 improved stock on stream then that would produce
14 increased wood supply of black spruce in 60 years; do
15 you?

16 A. I am not sure about the 60 years but,
17 yes, we expect to have plantations from genetically
18 improved stock in place at that point in time and if I
19 remind you about the Beauregard Seed Orchard, it in
20 fact is in place and will be producing stock within the
21 near future -- or genetically improved seed within the
22 near future.

23 Q. But you don't know what those yields
24 will be on that seed; do you?

25 A. No. Once again, we are looking 60

1 years down the road.

2 Q. That's right.

3 A. I think it's also important to point
4 out that what you are talking about is, you are talking
5 about predictions that are considerably further down
6 the road with respect to time and, as we move away from
7 today, our predictions obviously are subject to change
8 and are less accurate the further you move away from
9 today's situation.

10 Q. Right. Which could mean that the
11 situation could be worse rather than better 60 years
12 from now?

13 A. It could also be better.

14 Q. But it could also --

15 A. Considerably better.

16 Q. The point is: Surely, Mr. Multamaki,
17 what is not speculative here is the level of cut that
18 has been set. What is speculative is how much
19 regeneration success you are going to have to change
20 what looks like a declining black spruce wood supply?

21 MR. FLEET: A. If I could --

22 Q. Could you allow him to answer the
23 question first, please.

24 MR. MULTAMAKI: A. Could you rephrase
25 that, I'm not sure I picked that idea up.

1 Q. Well, this is your MAD calculation,
2 Mr. Multamaki, and it lays out a scenario which
3 indicates a declining black spruce wood supply over
4 time. In the plan you addressed the need for increased
5 regeneration and you have indicated a number of
6 strategies, which we will talk about a little later,
7 for addressing that question.

8 I think you agree with me that there are
9 considerable uncertainties attached to those strategies
10 and as to whether in fact they will sufficiently
11 increase the regeneration rate to change this declining
12 wood supply; is that not right?

13 A. I would agree with that.

14 Q. Yes. Mr. Fleet, what are you dying
15 to tell us?

16 MR. FLEET: A. Thank you. I was going
17 to suggest that I think we perhaps have left the
18 impression that we are going to indeed end up with - I
19 forget the number - 35,000 plus hectares of NSR at the
20 end of a 90-year rotation based on the computer
21 printouts which you have before you.

22 In fact, given my understanding of the
23 mechanics of the OWOSFOP model which is -- which those
24 printouts are the result of, there are certain
25 assumptions on which that series of repetitive

1 calculations are based and those assumptions with
2 respect to the generation of that rather large NSR
3 number are that the area that is harvested is returned
4 to that particular working group or forest unit that it
5 is harvested from and that, indeed, is what the
6 expression regeneration success pertains to.

7 Mr. Multamaki indicated prior to lunch
8 that there would be some areas reintroduced to the
9 spruce working group from the pine or the poplar
10 working group; conversely, there may be some areas from
11 the spruce working group that might go to both, or
12 either the pine, the poplar, or the birch working
13 groups.

14 It is a rather simple simulation model
15 that has certain assumptions built into it that many of
16 us understand and which may give you perhaps a bit of
17 an incorrect impression as to a 90-year forecast and
18 the outcome at that time.

19 It would be unreasonable to suggest,
20 based on that particular printout, that we are indeed
21 going to have whatever that value was, 35,000 hectares
22 of NSR 5 at that point in time, 90 years from now.
23 There will be accruals into the land base as there will
24 also be conversions of that spruce or pine working
25 group to others which will be accounted for by the

1 periodic reupdating of the inventory prior to each
2 five-year calculation.

3 Q. Well, you've introduced a number of
4 additional uncertainties which we will be discussing as
5 they are discussed in the plan through time, Mr. Fleet.

6 I simply want to underline the fact that
7 at this point the harvest of spruce and jack pine
8 projected over the next rotation by the Ministry's
9 calculations indicate a declining supply of those
10 species?

11 A. And I think what I'm indicating is
12 that you have to use the printouts and the calculations
13 with some caution.

14 Q. Well, we will go through all the
15 other qualifying factors in due course, Mr. Fleet.

16 MRS. KOVEN: Mr. Multamaki?

17 MR. MULTAMAKI: Yes.

18 MRS. KOVEN: Because of the fire this
19 area that you are proposing to harvest was not your
20 first choice. Is in fact it a more difficult area to
21 harvest and has difficult terrain, and is that
22 something that you would have stayed away from if you
23 had been given your first area of choice?

24 MR. MULTAMAKI: No. What in fact took
25 place is that we -- I looked at selecting additional

1 areas that were already planned for operations. In
2 fact, what we did was we simply took more from those
3 areas that were -- if you remember, the three main
4 areas on the unit that contained the oldest timber, we
5 simply took or allocated more or selected more areas
6 out of that to account for - I guess not to account for
7 the fires - but to bring it back up to the new MAD
8 level.

9 Like, a new MAD level was calculated, it
10 was less than the MAD level that was in the pre-fire
11 draft because the fire had essentially rearranged the
12 land base and then I, to bring it up again to that new
13 MAD level, I selected areas that were adjacent to or in
14 those -- generally in those three main areas of mature
15 and overmature wood.

16 MRS. KOVEN: So they in fact were no less
17 preferable for harvesting than the areas you lost to
18 the fire?

19 MR. MULTAMAKI: No, in fact, they were
20 relatively similar.

21 MR. MARTEL: When you did your model and
22 you indicate that you will do an update at the end of
23 five years, do you not build into the model any type of
24 calculation which would give us a clearer picture?

25 I mean, if you are going to at the end of

1 five years do this in your modelling, do you not make
2 some assessment for that, or is that not possible?

3 MR. MULTAMAKI: In the model itself, Mr.
4 Martel?

5 MR. MARTEL: Yes. You are going to do
6 five-year -- at the end of five years you will go out
7 and review what you have and recalculate your MAD.

8 When you are doing your model it seems as
9 though you have simply ignored that in running that
10 figure; is that correct, or it's not built in any way
11 at all to account for any of that?

12 MR. MULTAMAKI: In fact what's happening
13 is two processes, Mr. Martel. One is that, yes, the
14 FRI or the land base would be updated, in fact, we
15 would account for what's been harvested during that
16 five-year period, what's blown down, any changes that
17 took place to the land base; so you would have a new
18 land base figure that you are dealing with.

19 That, in fact, would affect your MAD
20 calculation because it wouldn't be exactly the same as
21 the one previous, obviously you would have harvest in
22 there, areas returning from free to grow surveys and so
23 on.

24 As well, this computer program or model
25 that was used would not be the same one used when the

1 Red Lake Crown Plan is prepared again in a few years,
2 in fact, I would expect that it will be an updated
3 model. This one, in fact, has become I guess obsolete
4 and, in fact, there are now new and better or more --
5 or models that are fine tuned or better able to provide
6 a scenario or whatever for the unit.

7 THE CHAIRMAN: I think that's the point
8 what is concerning the Board. What's the point of
9 these models in terms of long-term forecasting if they
10 are predicated upon a number of variables which (a)
11 aren't built in and which (b) probably can't be
12 ascertained until you have some empirical data further
13 down the road, perhaps every five years or every 10
14 years?

15 We can understand why you might have or
16 you might go through the exercise of trying to predict
17 what might happen throughout a rotation age of a
18 particular specie, but obviously from what you are
19 saying you are not to place too much faith in what the
20 numbers predict for 75 or 80 years down the road or 90
21 years, because of all these other factors which you
22 will have to take into account, such as the
23 regeneration success rates, which species have been
24 converted in and out of the particular land base, et
25 cetera.

1 Other than being a nice exercise and fun
2 to run through a computer, what real predictive value
3 do these have beyond the updating of the figures every
4 five years based on some hard data?

5 MR. MULTAMAKI: I think I better pass
6 that one on to Mr. Kennedy, I'm getting out of my
7 league here.

8 MR. KENNEDY: Well, Mr. Chairman, you
9 certainly made some good observations, and those
10 observations I'd suggest are not new, that that
11 information was also referred to by Dr. Osborn in
12 conjunction with Panel 3 where he talked of I believe
13 approximately 17 variables that are considered in the
14 full OWOSFOP model.

15 Dr. Osborn also explained the manner in
16 which Ontario uses this model to calculate maximum
17 allowable depletions and to use area control regulation
18 of the forest.

19 We believe that the model is valuable and
20 it enables us to make the predictions on known
21 quantities in that we do not speculate on what might
22 happen. Instead we have designed the planning process
23 to be renewed every five years with updated information
24 and to use that to make a prediction or a simulation as
25 to the forest conditions that will arise, and that

1 enables us to take a look at the actions that are being
2 undertaken today and the effect of those actions on the
3 forest structure over time.

4 The information that Ms. Swenarchuk has
5 just taken us through I believe we presented in part,
6 although in a different fashion, in our lead evidence.

7 In an effort to be -- in an effort to try
8 and make the MAD computer runs more understandable we
9 produced graphs such as that Exhibit 832F where we took
10 that information, interpreted it and showed it on a
11 graph line showing age of trees harvested during the
12 rotation to make the very same point.

13 The purpose of the model in this case is
14 to allow the forester to do three things. It is to
15 look at the forest structure and wood available on both
16 the short, medium and long term: The short term being
17 the five years and is the subject matter of the
18 majority of the TMP, the midterm being anywhere from 20
19 to let's say early rotation, and then long term being
20 the rotation age, and allows us to gauge what action
21 should be taking place now to alleviate such things as
22 what could be characterized as a shortage, as Ms.
23 Swenarchuk has, in terms of harvesting younger trees.
24 It allows us to look at that wood supply problem now
25 and undertake actions.

1 THE CHAIRMAN: But it is predicated on
2 certain changes occurring over the rotation age?

3 MR. KENNEDY: That's right. It is
4 predicated on the kinds of results that you would
5 expect to see from the actions that you would take now.
6 As such, we can do some manipulating of the model to
7 see the effect of those things.

8 But you are right, in that there are
9 assumptions that are required and I would suggest that
10 the model does serve a useful purpose in that regard.

11 MR. MARTEL: But the problem is you come
12 up with a figure of 35,000 hectares and you calculate,
13 I guess the depletion, but there doesn't seem to be
14 much in the way of calculating what is going to
15 regenerate.

16 I mean, it seems to be just an add-on
17 year after year with no built-in factors which tell you
18 how much of it is going to eventually get around to
19 being satisfactorily regenerated or so on.

20 MR. KENNEDY: Yes, Mr. Martel.

21 MR. MARTEL: I mean, it leaves as it
22 stands a pretty bleak picture I think.

23 MR. KENNEDY: You are right that it does
24 paint a bleak picture and this is one of the weaknesses
25 that we see in this particular model.

1 As Mr. Multamaki has indicated and I
2 indicated earlier, we are constantly in the process of
3 improving our models and one of the items that is
4 possible to do with this model is to stop the computer,
5 if you will, partway through, change the land base to
6 reflect accruals or the areas that have become free to
7 grow, add the land base and start the model over again.

8 It is possible to have each one of these
9 five-year MAD runs show what the best guess is, if I
10 can use that, or estimate as to the results of renewal
11 efforts.

12 The manner in which Mr. Multamaki used
13 the MAD run was to let it run its course and accumulate
14 those areas that were not regenerated. As I had
15 indicated in a response to Ms. Swenarchuk earlier, that
16 there was a catchall that was involved in those areas
17 that were not being regenerated, and by that catchall
18 what I was referring to was just this category in the
19 MAD run where the run accumulates the area that is not
20 being regenerated.

21 This by no means is an indication of an
22 occurrence that's expected -- sorry, it is no means of
23 an indication of what we expect to happen out there
24 and, as such, gives a false impression, if you will.
25 The caution is, is that we do update --

1 MS. SWENARCHUK: Q. Now, Mr. Kennedy --

2 MR. FREIDIN: Let him finish.

3 MR. KENNEDY: --every five years and we
4 do use the free to grow method of gauging when those
5 stands come back in.

6 We have felt that it is best to present
7 the information on the known success and to reflect
8 known quantities, such as the renewal rates that have
9 been achieved during the past five years, to update the
10 land base prior to the start of the new calculation.

11 MS. SWENARCHUK: Q. Well, Mr. Kennedy, I
12 think this discussion has got a bit derailed by turning
13 the discussion into a discussion of modelling.

14 If you could turn to page 109 of Book 1
15 of Reference 3A, it seems clear to me from the last
16 paragraph of that page that Mr. Multamaki believed in
17 the model because he saw in it a long-term declining
18 wood supply and a need for increased regeneration.

19 MR. KENNEDY: A. Yes, I don't dispute
20 that at all. The forest conditions that Mr. Multamaki
21 was confronted with are used as inputs to that model
22 and he is simply showing the results of the planned
23 actions in terms of harvest levels and the anticipated
24 renewal efforts using known information and made a
25 prediction of what the impacts of those would be on

1 forest composition over time. And part of that
2 prediction is, in fact, a dipping into the age-classes
3 at approximately 60 years in this spruce, as we have
4 indicated in Exhibit 832F.

5 Q. Or, as he indicates here, there's a
6 final statement in this section which has to do with
7 wood utilization:

8 "The total planned harvest will create a
9 total of 10,605 hectares of cut-over
10 area. This can be compared to the
11 total silvicultural program for 1986-1991
12 period and the results are a shortfall in
13 regeneration effort. This can be
14 attributed to the lack of complete
15 regeneration in the spruce working
16 group as discussed in Section 6.0. The
17 implications of incomplete regeneration
18 is that there is a steady long-term
19 decline in the spruce MAD."

20 Now, isn't it correct that in the face of
21 all these uncertainties about future regeneration,
22 nevertheless the MAD was set at this particular high
23 level which, if the regeneration rates continue and you
24 don't have any certain data to suggest that they won't,
25 indicates a long-term decline in the wood supply of

1 black spruce? So regardless of the uncertainties, the
2 MAD was set at this high level.

3 A. I think you are very much at the
4 kernel of the manner in which we practice timber
5 management.

6 Q. I think I am too.

7 A. We believe that it is possible to
8 have a sustained yield on that land base and that we
9 have to bring the forest into a managed state, which
10 has been described earlier by Dr. Osborn as the normal
11 forest.

12 It takes time to bring the natural forest
13 into the managed state and we have shown through a
14 series of graphs in our evidence - we were quite open
15 about this - and Exhibit 832D was an attempt to
16 indicate the kind of information that the forester has
17 to consider in bringing that forest under a managed
18 state.

19 That particular evidence was given by Mr.
20 Multamaki and it does show that on the -- for the first
21 rotation it takes at least one rotation in most
22 situations in Ontario's forests to bring them into a
23 managed state. Along that line we will have a small
24 dip into the younger age-classes that can be predicted
25 now.

1 The challenge that we have now is to
2 undertake renewal programs and other management efforts
3 to ensure that we make our best efforts to avoid that.
4 If we are unable to avoid that short -- that gap or
5 shortfall, then we have to look at other ways of
6 supplying that wood volume and, as has been described
7 by Mr. Armson in Panel 4, we go into a wood supply
8 analysis where we look at drawing wood from other
9 management units.

10 Clearly we have demonstrated that if we
11 are able to meet the assumptions that we have in the
12 model, that at the end of 90 years we are much closer
13 to a managed state for spruce on the Red Lake Crown
14 Forest and, similarly, in other working groups.

15 Q. Well, we are here examining an
16 undertaking whose purpose is the continuous supply of
17 forest products, some of us talk about that as
18 sustained yield.

19 If you would please look at our
20 Interrogatory No. 9, we asked - and I believe Mr.
21 Multamaki answered this question - the writer's
22 definition of sustained yield.

23 And while we're at it I think it would be
24 useful to turn to page 33, paragraph 4.9.1.1 where the
25 concept is used in the plan.

1 MR. FREIDIN: What page, I'm sorry?

2 MS. SWENARCHUK: Page 33.

3 Q. Under page 4.9.1.1 we see that:

4 "The Red Lake Crown Management Unit will
5 be managed on a sustained yield basis
6 with the actual harvest being directed to
7 the oldest age-classes."

8 Now, some of us naively think that
9 sustained yield means exactly that, and so we asked the
10 plan writer to give us his definition of sustained
11 yield and we see it in the answer to this
12 interrogatory, and its definition is that:

13 "The management unit will provide a
14 continuous supply of wood fiber that is
15 predictable with respect to parameters
16 such as species and volumes."

17 Now, that indicates to me that sustained
18 yield simply means predictability, it doesn't mean a
19 continuation of a certain volume of wood.

20 MR. KENNEDY: A. It certainly doesn't
21 indicate that we will be able to provide a set level,
22 in the manner in which we are using this here, a set
23 level of wood ad infinitum.

24 Q. Sorry, did you say it does or it does
25 not?

1 A. It does not imply that. The answer I
2 believe does imply that there will be a continuous
3 supply and the level will fluctuate and the level will
4 fluctuate for a variety of reasons; one of which is the
5 age in which the trees are harvested during that first
6 rotation as we move towards a normal forest, it will
7 also fluctuate on the basis of which particular stands
8 are chosen and what the make-up of those individual
9 stands are, and then again within the stand the
10 individual volume of -- or the individual tree volume.
11 So it will fluctuate over time, there is no doubt about
12 that.

13 Q. So when you set the MAD for a
14 five-year plan and you do projections over the long
15 term of what the wood supply looks like, you don't then
16 adjust the MAD so that the wood supply over the long
17 term will have some relative stability without gross
18 fluctuations?

19 A. That is a consideration. There are
20 ways in which the level of volume can be, to use your
21 word, stabilized or the words I would choose to use
22 would be even out the flow. That is a consideration.

23 The modelling itself does not do that for
24 us, that is part of the training aspect that we bring
25 to the table when we are analysing this information. I

1 have seen situations where foresters have contemplated
2 harvesting different working groups at different levels
3 over a 10-year period in order to try and even the flow
4 of wood.

5 . Q. That didn't happen here?

6 A. And it has not happened in this
7 particular case.

8 Q. Okay.

9 A. But that is one of the aspects that
10 is considered by the forester. What I would like to
11 point out though, in the case of Mr. Multamaki's
12 situation dealing with the spruce working group, I
13 haven't examined the figures on the pine closely
14 recently, but in the case of the spruce working group
15 he has 60 years in which to decide and to take actions
16 over to try and offset or make the best use possible of
17 that possible shortcoming; 60 years in which to arrive
18 at that.

19 There's possibilities there of
20 adjusting -- as he has indicated, adjusting the
21 regeneration efforts, there is also opportunities that
22 he may -- he or other managers may wish to pursue in
23 terms of increasing yield on smaller acres, areas in
24 order to offset the possible volume lost.

25 So it's possible to increase yield on a

1 portion of the land base in order to offset that.
2 That's all without going outside the management unit
3 boundaries and looking for alternative levels of
4 supply. It's also without --

5 Q. Mr. Kennedy...

6 A. And if I could make one more point.
7 It is also not -- sorry, there is not an indication
8 here that we will be approving harvesting of trees that
9 are 40 years of age. The model is making the
10 assumption of what are the oldest trees available for
11 harvest and the model presents that information to you.

12 The forester is then still faced with the
13 decisions as to: Would he allow harvesting in those
14 stands, and I would suggest that the -- we have 60
15 years in which to contemplate that and take actions
16 over and there are other ways of meeting that shortfall
17 without looking at harvesting 40-year-old trees.

18 Q. Okay. Two questions, Mr. Kennedy.
19 First of all, don't you agree with me that if you solve
20 the supply problem by going outside this management
21 unit you have not managed this management unit on a
22 sustained yield basis?

23 A. No, I would not agree with that at
24 all, and the reason I wouldn't agree is that we are
25 looking at bringing the natural forest into a state of

1 management and, as such, during the first rotations we
2 can expect significant fluctuations depending upon the
3 age-class structure and species composition of that
4 wild forest.

5 Upon bringing it under a managed state,
6 being in a normal condition, we will then be in a much
7 better position to predict with greater certainty what
8 level would be sustained and what the magnitude of the
9 fluctuations would be. That's assuming that there are
10 no other depletions such as fire and windthrow that
11 would affect it.

12 In the meantime, we would also be able --
13 if you were to look now, shift your focus to the
14 adjacent management unit - if that's where it was
15 possible to obtain volume from - we may well be
16 assisting that management unit in reaching its
17 normalized state by pursuing harvesting on that
18 management unit if it was in a surplus situation and
19 there was volume that was not needed for the industry
20 associated with that unit.

21 Q. Well, if we are talking --

22 A. So in the overall scheme I think that
23 we are moving towards a normalized forest and doing our
24 best to use the sustained yield management in that
25 regard.

1 Q. Okay. Well, if sustained yield means
2 also going outside this management unit to get
3 additional wood, what is the meaning of the statement
4 on page 33 that:

5 "The Red Lake Crown Management Unit will
6 be managed on a sustained yield basis
7 with the actual harvest being directed to
8 the oldest age-classes."

9 Frankly, I put it to you, gentlemen, that
10 statement has lost any meaning.

11 A. Perhaps we could take it in reverse
12 order then. The direction of looking towards the older
13 trees first is an effort to harvest those trees that
14 are in an overmature condition to utilize that volume
15 before it deteriorates as described by Mr. Multamaki.

16 The intention of sustained yield is to
17 bring the forest into a normalized state by ensuring
18 that there are adequate levels of regeneration.

19 In this case he has shown what his
20 current capability -- or, sorry, his past capability
21 has been on regenerating, in the spruce 65 per cent.
22 He has also indicated that he realizes that that should
23 be improved and he has recorded the manners in which he
24 thinks are most likely at this point in time to improve
25 that regeneration level.

1 Now, he has not modelled anything in the
2 future as to the predictions that he might be able to
3 make because of the outcome of that success, but he has
4 shown what the effect is of his current -- or his past
5 practices is on that level.

6 Q. Mr. Kennedy, you said that on this
7 management unit there are 60 years to take care of this
8 problem. And isn't it correct that when we are talking
9 about species which have rotation ages now of even 75
10 for black spruce -- jack pine, 90, 100 years for black
11 spruce, 60 years is not enough time in fact to
12 compensate for this depletion?

13 A. I would suggest that there is an
14 element that can be accomplished in that time, and that
15 is there are techniques that can be applied to increase
16 the yields on portions of that land base that would
17 offset the volume that otherwise would not be available
18 in younger trees, is one instance.

19 Q. And what are those techniques?

20 A. In this case I am referring to
21 thinning or spacing.

22 Q. Okay. Well, we will come to that a
23 little later.

24 MR. MULTAMAKI: A. Ms. Swenarchuk,
25 perhaps I can interrupt and point out the fact that

1 what you are saying is correct, that in fact in 60
2 years there is a gap in the black spruce situation.

3 If I could refer to your exhibit that you
4 just handed out and to the front page, jack pine, if
5 you notice under cut 1 at the top right-hand side it
6 shows a figure of 3,517. Right.

7 MR. FREIDIN: I'm sorry, where was that,
8 Mr. Multamaki?

9 MR. MULTAMAKI: The first exhibit -- the
10 first MAD calculation for jack pine.

11 MS. SWENARCHUK: Q. Right.

12 MR. MULTAMAKI: A. Okay. You have a
13 figure of 3,517 at cut 1.

14 Q. Mm-hmm.

15 A. That's 3,517 hectares that are the
16 MAD level for today.

17 If you look at cut 12, which is 60 years
18 down the road which you have mentioned, you see a
19 figure of 4,514. In fact we have got a thousand extra
20 or additional hectares in the jack pine working group.

21 Yes, we may not be cutting in spruce, but
22 we may be cutting in the pine working group to the tune
23 of 1,000 extra hectares because of the age-class
24 fluctuation. So, in fact, what we are doing is moving
25 from spruce in 60 years perhaps into pine.

1 Q. Perhaps.

2 A. That's one way of dealing with this
3 situation.

4 Q. Perhaps.

5 A. If you want to deal with apples and
6 apples.

7 THE CHAIRMAN: Those figures for cut 12,
8 you are looking at the next one down; aren't you?

9 MR. MULTAMAKI: That's correct.

10 THE CHAIRMAN: 4,797?

11 MR. MULTAMAKI: That's right. And just
12 on an acre-by-acre basis, in fact, there are more acres
13 available in the jack pine working group then than
14 there are today.

15 MS. SWENARCHUK: Q. Let's take a look at
16 the regeneration efforts here. With regard to black
17 spruce, as we have seen, this projects declining wood
18 supply as Mr. Multamaki identified in his plan, and it
19 also identifies a steadily increasing NSR 5.

20 And we looked at the definition of NSR 5
21 earlier and basically what it says is that this is land
22 which is extremely expensive to regenerate; that is,
23 more than what -- it takes costs greater than a hundred
24 per cent over current treatment costs, and certainly
25 some people, including my clients, think that current

1 treatment costs are pretty high too.

2 So, again, the regeneration of this
3 accumulating NSR 5 could be an extremely expensive
4 proposition. And isn't that expense itself another
5 factor that leads to considerable uncertainty as to
6 whether that NSR will in fact be regenerated?

7 MR. MULTAMAKI: A. Perhaps I could
8 clarify that issue as well. What you are reading from,
9 as I understand it, is NSR 5, the definition under the
10 forest management agreements.

11 Q. No, under the Timber--

12 A. Okay.

13 Q. --Management Planning Manual.

14 A. Yes. Okay. It's my understanding
15 that the NSR 5 category for the Red Lake Crown was
16 simply that holding category of areas that would not
17 regenerate. It wasn't limited only to cost, it
18 included a number of other factors, so...

19 Q. Well, did you write this plan in
20 accordance with this Timber Management Planning Manual
21 or some other manual and some other set of definitions,
22 Mr. Multamaki?

23 A. No, it was in accordance with the
24 planning manual as they existed at that time. The
25 computer program here used for modelling purposes had

1 NSR 5 as the heading. There was no option for a change
2 at the district level, that was simply the
3 classification.

4 Q. Well, what was the definition at the
5 time, Mr. Kennedy?

6 MR. KENNEDY: A. If I could help. It's
7 unfortunate that that title is above the total column.
8 What in fact is represented here is that at the outset
9 of the -- or, sorry, first of all, this is a very
10 simple model.

11 At the outset the NSR 5 heading is meant
12 to reflect what is actually in that column in the land
13 base -- or, sorry, in the land base at the outset of
14 the calculation. So in the case of the spruce I
15 believe the number is 544. So that area would have
16 been that which is determined to be correctly in that
17 NSR category.

18 In the case of the Red Lake Crown Plan I
19 don't believe there was a formal NSR survey and but was
20 some determination as to arrive at that number.

21 Q. Excuse me, Mr. Kennedy, I just want
22 to be clear on definitions. What is the definition
23 then of NSR 5 in this MAD run?

24 A. And I just explained that the balance
25 of the numbers are simply that catchall that I had

1 referred to earlier as a place to store the number in
2 the calculation that is not being regenerated.

3 The reason for storing the number, is
4 showing it here, is to be able to track the total land
5 over the life of the forest, so that the total on the
6 right-hand side is always balancing. It's unfortunate
7 that the category is at an NSR 5.

8 In terms of a user looking at this
9 information, those of us that have had training in this
10 regard realize that the category is a holding category
11 and what is the determining factor as to the fate of
12 that hectare is the free to grow surveys that would be
13 done on those areas, and then it would reassign those
14 to the appropriate working groups. Some would be
15 spruce and, as Mr. Multamaki indicates, some would
16 change working group, so...

17 Q. I think we understand that, Mr.
18 Kennedy, but are you saying then that NSR 5 on this
19 chart doesn't mean the same thing as NSR 5 in the
20 definition of the current Timber Management Planning
21 Manual?

22 A. I would say that the first number
23 that you see in that chart under the column NSR 5 is
24 consistent with the definition given on page 172 of the
25 Timber Management Plan but the balance of the numbers

1 would not be representative of the information shown in
2 NSR 5.

3 Q. Now, is there a document that you
4 could provide me that would indicate -- a document from
5 the model that is, that would indicate this process for
6 me.

7 A. I have one in mind. I will see if in
8 fact that contains information as to the handling of
9 that number. I don't recollect at the moment if it
10 does or not, but I can certainly provide that to you if
11 it does provide that explanation.

12 Q. Well, surely there should be some
13 document that records that, if in fact that is how the
14 model is being used.

15 A. I believe -- I will certainly
16 undertake to see.

17 Q. In any event, what you are saying
18 then is that the figures represent accumulating and NSR
19 land, that is not regenerated land, but not necessarily
20 NSR 5 land within this definition; is that right?

21 A. That's correct, and I believe this is
22 consistent with the evidence given by Dr. Osborn in
23 Panel 3 and I will certainly undertake to find out.

24 Q. So maybe it's not as bad as this,
25 maybe it's not going to cost this much to regenerate,

1 but it is accumulating unregenerated land?

2 A. Most certainly. And as I indicated,
3 there is opportunities there where the model can be
4 stopped and new predictions can be made to try out
5 simulations, but they would be best estimates. And the
6 manner in which we have given instructions for
7 foresters to use the model, is to use known quantities
8 where possible and that is what has been reflected in
9 here is a tracking of that area.

10 Q. I am glad we cleared that up. Now,
11 going back to your suggestion that we can compensate
12 for yield which you apparently do not consider to be
13 non-sustained yield, but somehow we will compensate for
14 fluctuations in the wood supply of this unit by going
15 outside the unit for wood supply; isn't it true that
16 the Ministry does not have regional wood supply
17 projections or models?

18 A. I want to be careful on how I
19 interpret your question. I would draw your attention
20 to the evidence given by Mr. Armson in Panel 4 where he
21 quite clearly made the Board aware of the fact that
22 there are wood supply models that we use in conjunction
23 with the information contained within the timber
24 management plans to achieve that result of looking at
25 wood supply on a regional basis.

1 Q. Okay. So you do know then at any
2 given time what the wood supply projection is over time
3 on a regional basis for all the districts in the
4 regional combined, aggregated?

5 A. At any point in time I would say, no,
6 that we do not keep that model updated, but there is a
7 tool there that can be used when there is a need to
8 look at multiple management units within a region to
9 determine solutions to wood supply problems.

10 Their model is not -- or, sorry, there is
11 not an updated information base that is in existence at
12 all times throughout the regions, all regions, in that
13 some of the supply problems may be quite simple and
14 just be simply a transfer or a -- the way I look at it
15 is a transfer of wood from one management unit to the
16 next. Other situations that may be more complicated
17 would benefit from the use of the model.

18 Q. Now, Mr. Multamaki, could you turn to
19 page 16 of Book 1, please, which is Table 4.4 which is
20 the Report of Renewal and Maintenance Operations. And
21 my understanding is that this records past renewal and
22 maintenance operations?

23 MR. MULTAMAKI: A. Yes, it does. It's
24 our -- it's renewal and maintenance operations for
25 April 1st, '81 to March 31st, '86.

1 Q. Right. Now, do you have data that
2 indicates the success rates of regeneration -- well,
3 first of all, this form only records operations as
4 opposed to success rates; is that not right?

5 A. That's correct.

6 Q. Okay. Now, is the data available to
7 you, does that include success rates by different
8 methods on site type; is it correlated by site type and
9 treatment method?

10 A. The information I think you are
11 asking for is the information that is contained in the
12 the silvicultural files at the district level; i.e.,
13 the free to grow surveys, the recordkeeping system for
14 silvicultural information.

15 This, as you pointed out, is -- Table 4.4
16 is a report of the actual renewal and maintenance
17 operations that take place and doesn't qualify the
18 success of those operations and, in fact, I think if
19 you turn further on to the free to grow surveys in
20 table -- or free to grow assessments, the Table 4.7 on
21 page 19, there is where you would see what area has
22 become successful during the five-year period of that
23 plan, regardless of operation type that took place.

24 And, in this case, you have got treated
25 and untreated areas; treated being those that received

1 silvicultural operations and the untreated areas being
2 those that were left for natural or regeneration
3 occurred naturally on.

4 Q. Okay. And that table does not
5 indicate success rates by connection to site types?

6 A. No, it doesn't, not by site type or
7 by treatment type. However, there is a certain amount
8 of discussion in the text of the plan that discusses
9 those sort of things. Particularly in the past plan
10 analysis that accompanies the -- or is in an appendix
11 to the plan.

12 Q. We asked an interrogatory on this
13 question, Interrogatory No. 4. If you would take a
14 look at that. I just want to take a moment to get a
15 kind of overview of what sort of regeneration success
16 data was available, and you have indicated here that
17 you use survival assessment, stocking, free to grow,
18 infrared surveys and specialized regeneration surveys.

19 You didn't specify though what results
20 have been obtained, but there is some of that in the
21 the plan, I guess.

22 Now, our question there is:

23 "Does the MNR have data indicating
24 success of different methods of
25 regeneration on different site types?"

1 And that part of the question was not
2 answered either. What is the answer to that question?

3 A. I can only respond as far as the Red
4 Lake Crown--

5 Q. Yes.

6 A. --is concerned, and at that point in
7 time where I was still with the MNR, and I guess the
8 success rates or the judgment of success by site type
9 and so on would be contained, to a certain extent, at
10 the district level in the project files or
11 silvicultural files in that at a project level you
12 could determine, for example, whether a treatment had
13 been successful; i.e., you could follow it from the
14 harvest cut through the silvicultural operations to the
15 free to grow status and, in fact, track it or whatever
16 that way at the district level.

17 And, in fact, the unit staff or the
18 timber management staff in the district, particularly
19 the unit forester, would be aware of what is working,
20 what is not, the level of success, where failures were
21 occurring and so on. But really what you are getting
22 into is into the professional and technical,
23 particularly the technical, end of tracking specific
24 silvicultural projects.

25 Q. Yes. I take it from your answer -- I

1 just want to be clear on this, you said it could be
2 done. I take it that in the normal course of your
3 functions you didn't find it necessary to do that; is
4 that right?

5 A. It's not quite as simple as I make it
6 sound. I guess in that, for example, I haven't thrown
7 in the fact that some plantations are failures, portion
8 of plantations are failures, some have varying levels
9 of assessments on it during the period, some haven't
10 been assessed at all because they are still in very
11 juvenile stages, some in fact have been assessed for
12 free to grow status and have been retreated, you know,
13 what I am saying -- telling you is that there are a
14 number of things that occur at an operational level
15 with these plantations.

16 Q. Mm-hmm.

17 A. And if you are looking for a simple
18 number-crunching exercise, it's not quite that simple.

19 Q. Well, no, I am looking for something
20 simpler than that actually, I am looking for an answer
21 to the question of whether you, in looking at
22 regeneration activities and results and projections for
23 the future, went through the exercise of correlating
24 regeneration results with specific site types in the
25 the plantations and other treatments that have been

1 done that you were looking at?

2 A. I guess the problem I have got is
3 with your definition of site types. Are you talking
4 specific site types or generally, or -- it wasn't that
5 closely related to site types.

6 Q. Okay.

7 A. Other than the fact that...

8 Q. Fair enough. And you told us, or we
9 discussed earlier Interrogatory Question No. 24 about
10 timber records, and I believe that you indicated then
11 that the silvicultural records available are more
12 complete after 1976 than before?

13 A. Yes, they are.

14 Q. Okay. And we were also interested in
15 the proposal for the conversion of balsam fir stands to
16 other species which is referred to at page 156 of
17 Volume I, and we asked Interrogatory No. 28 about the
18 degree of success in that conversion.

19 And you indicated in the answer that the
20 records available don't track -- it is not possible to
21 respond to your request because past records were not
22 kept in a fashion that tracked areas by original
23 working group on a stand-by-stand basis, and then you
24 indicate that conversion of balsam fir stands on the
25 unit during 1976 to '86 represented a very minor part

1 of the silvicultural program.

2 So again, I take it you don't have
3 useable data available as to how successful those
4 conversions have been?

5 A. The intent there was that it's
6 difficult, or we don't track the records by original
7 stand or original stand type or stand number or
8 whatever, or we didn't at that point in time.

9 Q. Wouldn't that be important for
10 measuring success when you are setting out specifically
11 to do species conversion?

12 A. I'm not sure where the original
13 stands type would play a role. If you've done
14 conversion you have obviously been successful of
15 converting a balsam working group to something else.
16 Obviously if you -- the assumption is, because you've
17 done conversion, it was a balsam fir working group and
18 you knew you were doing it.

19 So I am not really sure what your
20 question is.

21 Q. Well, if you are going to spend time
22 and money engaging in a silvicultural project to
23 convert a species, I would think you would want to
24 learn from that whether that expenditure was
25 successful; in other words, whether the specific

1 treatment of converting balsam fir to something else is
2 a justifiable expense and one that will bring volume
3 returns in the future.

4 It surprises me that you wouldn't want to
5 track, in that case, exactly that stand conversion?

6 A. Yes. And I think what you are
7 alluding to is, should we be doing that right now and
8 should we be tracking it. And I think in the present
9 timber management planning process, yes, we will -- I
10 would expect we would track that.

11 Q. Okay. And can we look at
12 interrogatory -- well, is it being tracked now?

13 MR. KENNEDY: A. I think one of the
14 positive indications, Ms. Swenarchuk, of just that
15 intention is the way in which the new planning process
16 addresses silvicultural ground rules which, I might
17 add, in the past were not part of the plan but now
18 where there is -- and currently I am looking in the Red
19 Lake Plan at page 65.

20 Q. Of Book 1?

21 A. Table 4.1.1 of the Red Lake Plan
22 Reference 3(f). And I don't suggest you go into any
23 details here, but just to indicate that on the
24 left-hand side of the page, where the FRI working group
25 is shown as balsam fir, the third column shows desired

1 working group, in this case, of black spruce and then
2 there are stocking standards associated with that.

3 So there is an indication there of what
4 the management intent is and in the silvicultural
5 records that are kept there would be an indication of
6 the success or failure of those efforts against the
7 desired working group.

8 So, yes, it is important to track that
9 and to gauge the kind of success that you have on the
10 treatments.

11 Q. Well, why wouldn't that have been
12 done according to the response to Interrogatory No. 28?

13 A. Why didn't we make reference to that?

14 Q. No. I would say, why would you set
15 out -- well, the answer to Interrogatory No. 28
16 suggests that such tracking records on balsam fir
17 conversion were not kept on a stand-by-stand basis.

18 Why would that not be done?

19 Surely you would want to be able to
20 measure the success of that process as it's being done.

21 Why wasn't it done up to now?

22 MR. MULTAMAKI: A. I guess I can maybe
23 help you out with that, Ms. Swenarchuk.

24 What occurred on the Red Lake Crown in
25 the way of balsam fir conversion, as I previously

1 stated, is that it was on a convert as encountered
2 basis, it was a relatively minor part of the program,
3 it wasn't thought at that point in time to be a
4 significant part of the program.

5 Also there were a number of areas, for
6 example, that were balsam fir, they had been harvested
7 during the past 10, 15, 20 years, fires had occurred
8 over them, regeneration projects may or may not have
9 occurred in them. It's very difficult to trace back
10 what in fact was a balsam fir working group through
11 that series of events, I guess.

12 Q. Okay. If can we look at
13 Interrogatory No. 32 which is another species
14 conversion proposal, this one is found at page 163 of
15 Volume I and it has to do with converting hardwood
16 stands that contain 30 per cent or more conifer content
17 to conifer working groups after harvest.

18 And, again, we ask how successful are
19 they, and what is the projected cost per hectare.

20 And, again, the reply indicates that it's
21 a small part of the program, there is little data or
22 information on success rates and it's only happened
23 since the early 80s, and the projected cost will be
24 greater than regular silvicultural programs because
25 they are generally highly productive sites subject to

1 heavy competition and the use of herbicides is commonly
2 required and the costs can be 10 to 40 per cent higher
3 than regular silvicultural programs.

4 Now, again, it's a surprising concern to
5 us that if you are planning to spend 20 to 40 per cent
6 more than normal for a silvicultural project, normal
7 intensive silviculture being expensive enough, that you
8 would want to have pretty reliable indicators of
9 success first?

10 A. With respect to that, I guess we can
11 deal with the cost aspect of it. That would be like me
12 asking you: What is the cost of gasoline going to be
13 in a year, plus what are the costs of the car and
14 everything else going to be.

15 Really that is what we are dealing with
16 when we start talking about silvicultural operations.
17 We cannot give you a dollar and cents figure or
18 projection a year, two years, three years, five years
19 down the road because there are a number of variable
20 factors in that.

21 Now, so far as cost goes, it's difficult
22 to say we can and we have provided a percentage saying
23 that all things considered equal it will cost 10 to 40
24 per cent more. I think you realize that it's difficult
25 for us to give a dollar and cents figure on that.

1 Q. I am sure it's difficult to give a
2 precise figure, but are you suggesting that there is no
3 long-term financial planning done with regard to the
4 costs of these long-term silvicultural projects, Mr.
5 Multamaki?

6 A. I was going to pass that on to Mr.
7 Kennedy.

8 Q. I noticed.

9 A. Given that you are really asking
10 for...

11 Q. Well, what was your experience as
12 a --

13 MR. CASSIDY: Perhaps he can answer the
14 question, he's in the middle of talking.

15 MS. SWENARCHUK: Q. What was your
16 experience as a unit forester, Mr. Multamaki?

17 MR. MULTAMAKI: A. Well, as you pointed
18 out, my experience was as a unit forester and not as a
19 financial planner or stockbroker and any of those
20 other, I guess, disciplines and it was -- I guess my
21 opinion that the cost, yes, on conversion would be 10
22 to 40 per cent higher.

23 What the baseline cost would be was
24 subject to a number of variable factors; i.e., the cost
25 of equipment, the cost of labour, the cost of services,

1 support and so on for those projects, and we recognize
2 that in fact given the conversion costs for hardwoods
3 to conifers would in fact be more expensive. That was
4 my personal impression on it.

5 Q. And do I take it then that it was
6 within your responsibility and within your
7 decision-making power as the unit forester to undertake
8 these projects notwithstanding that, as you say, you
9 were not doing the long-term financial costing of them?

10 A. It was within my power to plan these
11 projects. Certainly I did not have, as a unit
12 forester, budgetary control over what got approved and
13 what didn't.

14 THE CHAIRMAN: You don't even have the
15 decision-making powers in the sense that your proposals
16 are approved at higher levels; are they not?

17 MR. MULTAMAKI: That's correct.

18 THE CHAIRMAN: The district manager and
19 on up the line.

20 MR. MULTAMAKI: Sure, the district
21 manager makes the decision on whether or not the annual
22 work schedule will be put into effect.

23 MS. SWENARCHUK: Q. So he's the one who
24 would make the decision, taking into account the cost;
25 is that right?

1 MR. MULTAMAKI: A. I would guess he
2 would seek advice on that, if he found that that was a
3 concern.

4 MR. KENNEDY: A. Ms. Swenarchuk, I
5 should indicate that the need for financial analysis
6 with regard to some of the long-term decision-makings,
7 particularly those related to silvicultural, is
8 something that has not been unnoticed by us.

9 I believe the evidence in Panel 11
10 presented by Mr. Hynard dealt with that very subject
11 and he's indicated that it's a relatively new
12 initiative that the Crown has undertaken, and we have
13 been providing workshops for unit foresters to assist
14 them in such analysis.

15 Mr. Multamaki -- those workshops were not
16 available at the time that Mr. Multamaki has prepared
17 his plans and I myself haven't taken any workshops of
18 that nature. We are making the effort to train younger
19 unit foresters in that regard and we do expect to see
20 that kind of analysis show up in plans in the future.

21 MR. MARTEL: Could I ask a question,
22 because it worries me. If you are spending money to
23 convert an area, whether it's hardwood to softwood or
24 vice versa, surely you would want to know what your
25 success rate is? I mean, you don't spend money --

1 throw money at the wall and not want to know whether
2 you are achieving a high rate of success for the money
3 invested or not.

4 MR. KENNEDY: Well, Mr. Martel, let me
5 make it quite clear that we do not treat these areas
6 and forget about them. There are a wide variety of
7 surveys that we use in order to gauge the success of
8 those areas and what we are suggesting is that that
9 information that we have gathered hasn't been put
10 together in a fashion that would allow one to make
11 great predictions as to the returns that we expect
12 later as a result of those initiatives.

13 We do make the judgments on conversions,
14 which is a very small portion of the land base, on the
15 basis of our existing practice, our knowledge, our
16 local knowledge that people have gained in encountering
17 -- or, sorry, when they have undertaken those kinds of
18 activities and we follow up through our regular
19 assessment program where we do survival assessments on
20 plantations, where we do stocking assessments on those
21 areas that have been both seeded or planted and
22 naturally regenerated areas, as well as follow through
23 with free to grow surveys.

24 So it is in that fashion that we are able
25 to judge the successes that we are having from those

1 treatments and other treatments and we use that
2 information to update our land base for items such as
3 the maximum allowable depletion calculations.

4 MR. MARTEL: I mean, your answer is there
5 is little data or information on success rate, that's
6 the answer that was provided. One might have expected
7 then that it would have included that saying precisely
8 what you have just told me so as to not leave an
9 impression and an answer that you have no way of
10 calculating or determining whether in fact you have
11 achieved some form of success.

12 MR. KENNEDY: Yes, Mr. Martel, we could
13 have given a fuller answer in this case. We have often
14 grappled with how far do we go with an answer. In this
15 case we were trying to answer the specific question
16 that dealt with the conversion and we are indicating
17 that we do not have a set of records that exists in one
18 place in a management unit's files that has a label
19 conversion sites on them that tracks that as a separate
20 treatment.

21 Instead, the manner in which we have
22 traditionally tracked our treatments is by land base,
23 and the reason for that is that the majority of
24 information that we relate to most readily is that
25 that's contained on maps. We use a series of maps to

1 identify where on the ground those treatments have
2 taken place and we follow through with, if you will, a
3 hand version of a geographic information system and we
4 have responded in that fashion.

5 MS. SWENARCHUK: Q. Now, Mr. Multamaki,
6 would you turn to page 21, please, of Book 1. This is
7 again dealing with forest description, in this case
8 it's called, and regeneration issues.

9 THE CHAIRMAN: Sorry, what page is that,
10 Ms. Swenarchuk?

11 MS. SWENARCHUK: Page 21.

12 Q. And you indicate in the fifth
13 paragraph that Fire 7 and 14:

14 "...moved a large block (in excess of
15 53,000 hectares) of land base into the
16 barren and scattered category within the
17 past six years. This large area...will
18 be at least partially moved into the 1-20
19 age-class over the management plan
20 period. This regeneration will be
21 achieved through a combination of natural
22 and artificial regeneration techniques.
23 The single largest factor will be the
24 natural regeneration which occurs in
25 standing mature black spruce and jack

1 pine after a wildfire."

2 Now, can we take it from that statement
3 that you are expecting good quality regeneration on
4 those fire burnt sites through natural regeneration?

5 MR. MULTAMAKI: A. Yes. It was my
6 expectation and it still is my expectation that those
7 areas that burned that were standing timber will
8 produce every bit as good a stand as was there when
9 they burned. For example, in the Fire 7 area that
10 burned in 1986, I would expect that almost the entire
11 area will regenerate naturally.

12 It had seen very little disturbance of
13 any other kind other than a road right-of-way cut
14 through it and a very small area of harvest and, in
15 fact, it was almost completely standing timber,
16 standing mature jack pine and spruce when it burned.
17 There is every expectation that it will come back to
18 those working groups as it has done as far back as we
19 can see. In fact, the boreal forest naturally
20 regenerates through fire.

21 Q. Would you have expected the same
22 quality of regeneration on that area if it had been
23 harvested?

24 A. You're looking for I guess an
25 estimate here. Personally I would have looked at

1 better regeneration.

2 Q. If it had been harvested?

3 A. Yes. Through the establishment of
4 plantations, I would expect that the regeneration would
5 be better on a volume per acre basis. Under a managed
6 situation, I would expect better.

7 Q. But you are not planning to use
8 intensive management on those sites to regenerate them?

9 A. Not all of them, no.

10 Q. Any of them?

11 A. Yes. Certainly we would have looked
12 at -- had we harvested those areas, we would have
13 looked at silvicultural operations on a number of those
14 sites.

15 Q. Okay. Given that they burnt then and
16 they are now regenerating naturally, are you intending
17 or is the management unit intending to use any
18 intensive management techniques on any of that area?

19 A. The first thing, it was my intent -
20 and, in fact, I put it into this timber management
21 plan - was to assess the area and find out, in fact,
22 what was taking place out there.

23 It would seem pretty foolish to move into
24 the area without knowing what's taking place in there;
25 whether, in fact, we are getting regeneration or not.

1 So, in fact, we are looking at assessments of the
2 success of natural regeneration in the burned area.

3 MR. FREIDIN: Maybe you should have read
4 him the last five lines which follow what you just read
5 him and it would have been clearer.

6 MS. SWENARCHUK: Agreed.

7 Q. Could you look at Interrogatory No.
8 16, Mr. Multamaki. Now, if we look at -- we asked here
9 the total estimated area requiring regeneration
10 including harvest area, Fire No. 7, and backlog areas
11 not satisfactorily regenerated.

12 And, again, you seem to indicate in this
13 answer that most of the fire areas -- burnt areas are
14 expected to regenerate naturally and some of it already
15 has.

16 Then you indicated with regard to barren
17 and scattered:

18 "There are 7,416 hectares of plantation
19 included which had not yet reached free
20 to grow status."

21 And that of the -- on the next page then:
22 "Of the total number of hectares of
23 barren and scattered, an estimated 6,449
24 are previously harvested areas which
25 require regeneration."

1 And then you referred us to pages 114 and
2 115 for the criteria that you will be using in
3 determining where the regeneration happens.

4 Okay. Could we just look at those now.

5 Now, at the bottom of page 113, Mr. Multamaki - and
6 this is criteria for 20-year renewal and maintenance
7 eligibility - paragraph 3 indicates that:

8 "The backlog areas that have not
9 satisfactorily regenerated (NSR) and are
10 highly productive have been partially
11 identified. These areas are eligible for
12 renewal and maintenance..."

13 And then with regard to the five-year
14 plan on page 114 we see basically the same plan, and
15 paragraph 2 that:

16 "The backlog areas scheduled for renewal
17 operations must have a high potential for
18 forest production."

19 So what's going to happen to those
20 backlog areas which aren't judged to have a high forest
21 potential?

22 MR. MULTAMAKI: A. There are a number of
23 possibilities that could occur. Without knowing
24 specifically which area you are talking about, one of
25 any number of occurrences could take place.

1 They could remain as barren and
2 scattered, they could regenerate naturally into another
3 working group such as poplar, jack pine, spruce and out
4 of the working group that they were in, and they
5 could -- and I guess they could naturally regenerate
6 back into the working group that they originally came
7 from, in fact, naturally regenerate even though they
8 are shown as barren and scattered at this point in
9 time. They simply will take a longer time, as Mr.
10 Kennedy has pointed out.

11 Q. And you indicated that one of the
12 possibilities is that they could remain in the barren
13 and scattered category?

14 A. They could.

15 Q. Have many of these more productive
16 sites been identified at this point, or had they been
17 while you were still in the unit?

18 A. While I was there there were a number
19 of them that had been identified.

20 Q. Can you give me any idea of the
21 proportion of that 6,500 hectares?

22 A. You are asking for a real guess here
23 based on three years back, I guess, but it was a
24 significant amount, you know, in the range of -- no,
25 I'm not sure. You know, I'd be guessing.

1 Q. Fine. Mr. Groves?

2 MR. GROVES: A. I can maybe bring you up
3 to date. The entire older fire, that's the 1980 fire,
4 has completely been photographed and is expected --
5 district staff hope to have it all stratified and typed
6 within 12 months from now, so all those sites within
7 that fire will be finished.

8 Q. Okay. Have any regeneration
9 activities commenced on any of those identified highly
10 productive sites?

11 A. Yes, they have.

12 Q. Okay.

13 MS. SWENARCHUK: This would be a good
14 time for a break, Mr. Chairman.

15 THE CHAIRMAN: Very well. We will break
16 for 20 minutes. Thank you.

17 ---Recess taken at 2:55 p.m.

18 ---On resuming at 3:25 p.m.

19 THE CHAIRMAN: Thank you. Be seated,
20 please.

21 MR. KENNEDY: Ms. Swenarchuk, if I might
22 clarify a matter that you had asked for some
23 information on regarding the MAD before we switched
24 topics.

25 I indicated that I believe there were

1 some instruction around with regards to the handling of
2 the NSR 5 numbers in the MAD run, and there is
3 instructions in the back of the Timber Management
4 Planning Manual, which is Exhibit 7, in Appendix B
5 which begins on page 177 and runs through to page 192.

6 Perhaps I should have made reference to
7 those when I was giving that evidence in direct in that
8 this is an appendix that is part of the Timber
9 Management Planning Manual which provides background
10 information on how the calculation is performed, and
11 specifically on pages 189 and 190 there is an example
12 that follows through with the handling of the NSR 5
13 category and I'd draw your attention to that place to
14 see how the numbers are derived.

15 MS. SWENARCHUK: Q. Mr. Multamaki, would
16 you turn please to page 32 of Book 1 of the plan, and
17 at the top of that page we see the integrated resource
18 management objective and I just wanted to ask you if
19 the objective is accurately stated there:

20 "To ensure the coordination of timber
21 management activities so that long-term
22 benefits are optimized..."

23 Is that correct, or should it be
24 optimized?

25 MR. MULTAMAKI: A. It should in fact be

1 optimized; that's a typo.

2 Q. Okay.

3 A. And as Mr. Kennedy just pointed out
4 it is on the errata sheet.

5 Q. Is it? Okay. And the next paragraph
6 on that page indicates the environmental objective for
7 the unit and refers to using established environmental
8 practices to minimize negative impacts.

9 And I would just like you to explain or
10 list for us, Mr. Multamaki, what in your mind were
11 those negative impacts that would have been possible on
12 the Red Lake Crown Management Unit?

13 A. Certainly. There are a number of
14 impacts that could be considered negative; for example,
15 things like siltation of streams, compaction, erosion,
16 rutting and so on, and I think these have come up
17 periodically throughout these hearings, that there are
18 a number of potential impacts that may take place for a
19 variety of reasons.

20 Q. Okay. Could you indicate where in
21 the plan, if anywhere, the public could see what
22 practices the Ministry is proposing for the unit to
23 minimize those impacts?

24 A. Certainly. I think if I can direct
25 your attention to the strategy on page 39 of the same

1 document. I'm not sure we need to read page 39 through
2 40 of this document, but to capsulize the intent there,
3 there are a number of things that -- or a number of
4 strategies that were going to be implemented to ensure
5 that environmental protection took place.

6 For example, under protection practices,
7 4.9.4.1 on page 39, there are in fact five specific
8 points or strategies or components of that strategy
9 that were going to be implemented to provide protection
10 for the environment.

11 As well, on page 40 we make reference
12 under construction and operational control to various
13 manuals or methods of doing business; for example,
14 aerial spraying for forest management, an operational
15 manual, prescribed burning manuals. By following these
16 manuals it will, in fact, minimize the impacts of those
17 operations.

18 Q. I agree we don't have to go through
19 all them, but there are a couple I am interested in.
20 Paragraph 1 at the bottom of page 39:

21 "Where severe site damage may occur
22 due to thin soils or excessive ground
23 water, modified harvesting or seasonal
24 restrictions will be implemented."

25 Now, within the areas allocated during

1 this five years of this plan did you, in fact, require
2 modified harvesting or seasonal restrictions in some
3 areas?

4 A. Yes, in fact that took place. But,
5 as I mentioned earlier, there was also another
6 component in there, in the back spruce working group
7 where seed source was required as well and we, in fact,
8 did modified harvest cutting for natural regeneration
9 purposes.

10 As well these operations, because of the
11 damp nature of the area, were undertaken or scheduled
12 for winter operations so that the site would be frozen
13 and the impacts on the site would be minimized because
14 of the frozen nature during mechanical operations.

15 Q. And what about the tracked machinery
16 in paragraph 3, was any of that used?

17 A. I was only involved in the first year
18 or two of the implementation of this plan and those
19 sites -- or the sites that I had in mind didn't occur
20 where it required that.

21 Q. Okay. Now, going back to page 36,
22 Mr. Multamaki, the Silviculture and Maintenance
23 section. In the first paragraph of that section we
24 read about halfway through the paragraph:

25 "A program of intensive forest management

1 will be directed at the more productive
2 sites on the unit. This will ensure the
3 greatest return in volume, product and
4 reduced rotation period from the initial
5 investment. "

6 And we asked an interrogatory on that
7 question, it's Interrogatory No. 10, and we asked:

8 "Have the better sites for the next five
9 years been identified? What increase in
10 volume is expected? How is it
11 determined? What will the rotation
12 periods be and how were they determined?"

13 And you indicate in the answer that:

14 "It is not possible to quantify all of
15 those issues and that this statement was
16 based on the generally accepted forestry
17 principle that intensive management
18 techniques would increase the average
19 yield per hectare."

20 I take it then that you don't have data
21 at this point to indicate what this increased yield
22 will be?

23 A. No, for the Red Lake Crown Management
24 Unit we don't have hard numbers on what that increase
25 will be. However, I'd like to point out that we have

1 taken steps in the direction that we pointed out here,
2 in fact, we now have FEC in place.

3 And if I could pass it to Mr. Groves he
4 could explain exactly what is taking place with respect
5 to this -- your question here.

6 MR. GROVES: A. Yes. We have started a
7 series of, shall we say, thrusts with regard to the FEC
8 system and the fact that we've tied the FEC site
9 classification into our operational cruise data, so at
10 the same time the cruisers are picking up information
11 with regard to volume they are picking up information
12 with regard to the site.

13 At the same time, the unit forester is
14 trying to go back to the existing plantations and match
15 the silvicultural systems that were applied to an FEC
16 classification. In connection with that we are working
17 with the Technology Development Unit here in Thunder
18 Bay and they are working up volume tables to match
19 those FEC classifications.

20 So we are then dealing with rotation,
21 volume and treatments per those FEC classifications and
22 trying to get an idea at the same time what kind of
23 sites will be coming up in the next five years.

24 MR. MULTAMAKI: A. And I think in fact
25 this agrees with the last line in that paragraph -- or

1 the second last line in the paragraph you were just
2 previously talking about, that we would match -- try to
3 match FEC to operational cruising and so on.

4 Q. So you are expecting to have some of
5 this data in the next few years; is that right?

6 MR. GROVES: A. For the next timber
7 management plan, our present objective is to in the
8 silvicultural ground rules use FEC to describe the
9 particular sites.

10 Now, that's our objective for the
11 planning team in the initial stages, but whether we
12 achieve that depend on the next six to eight months'
13 worth of work.

14 Q. And are you expecting from your work
15 to have yield tables for plantations in a similar form
16 to the Plonski yield tables for undisturbed forest?

17 A. That's our long-term objective. I
18 can't personally respond to how the growth and yield
19 information is going on because that's, like I said,
20 work that is being developed through the TDU and we
21 just wait for their reports to come out.

22 Q. Similarly on the next page, Mr.
23 Multamaki, with regard to tree improvement, paragraph
24 4.9.2.2, you have indicated in the second sentence of
25 that paragraph that:

1 "This will ensure a consistent supply of
2 high quality seed and increase overall
3 plantation quality and volume yields."

4 Am I right in assuming that those
5 projected increases in quality and volume also are not
6 quantified?

7 MR. MULTAMAKI: A. No, to the best of my
8 knowledge they are not quantified other than we
9 recognize that the tree improvement program and the
10 selection of plus trees, establishment of seed orchards
11 and the progeny testing produces genetically superior
12 stock or genetically superior seed.

13 Q. So the assumption is that that will
14 mean higher volumes in the long term?

15 A. Well, I think it's more than an
16 assumption. And, like I said, I'm not a geneticist,
17 but it's my understanding that, in fact, it's more than
18 an assumption, it is pretty well a proven fact that
19 this method of tree improvement does provide
20 significant increases or significantly better stock.

21 Q. Well, I would really like to know
22 what data the Ministry is relying on for that
23 conclusion.

24 MR. FREIDIN: Mr. Chairman, surely we
25 don't have to go through all the evidence that Dr.

1 Osborn gave on growth and yield in Panel No. 3. I
2 mean, I think we -- in particular, we are in fact
3 spending a lot of time dealing with matters which have
4 been dealt with in the past, and I think this is one
5 that I feel I should rise.

6 MS. SWENARCHUK: Well, Mr. Chairman, I
7 don't think any of these questions have been dealt with
8 in the specific -- within the specifics of a given
9 timber management plan in the past, which is the
10 difference.

11 THE CHAIRMAN: Okay. Let's deal with
12 that question, Ms. Swenarchuk, just for a moment. Is
13 it necessary to deal with all of these questions in the
14 context of the Red Lake Plan?

15 I know the Red Lake Plan was given as an
16 example of how the most recent plan was put together
17 utilizing some of the new timber management planning
18 methodology that is before the Board and, having said
19 that, is it not of more value to ask questions
20 pertaining to the planning process itself as opposed to
21 looking at the Red Lake Plan, going through the numbers
22 on the Red Lake Plan and trying to point out
23 deficiencies in that particular plan which - I think
24 there is evidence on the record - it was formulated at
25 the very front end of using the new planning

1 procedures, it was formulated by those who had received
2 very little training in the new planning procedures,
3 and we have heard evidence as to how, through training
4 and other methods, some of the work put into that plan
5 may well be improved in the future.

6 I think what we are interested in, to a
7 large extent, although it's illustrative of how the
8 planning process might work using the one that is
9 presently before the Board for approval -- we seem to
10 be spending a lot of time on a lot of detail of that
11 particular plan and it may well be that any planning
12 process, should the Board grant approval with various
13 conditions of approval, may substantially change the
14 way that plan was in fact formulated.

15 In other words, we are looking at the Red
16 Lake Plan, it appears to the Board, in a manner as if
17 that is the exact planning process that may ultimately
18 end up being what is sanctioned by the Board; it may
19 not be.

20 MS. SWENARCHUK: Two points. First of
21 all, Mr. Chairman, in the Board's determination of what
22 the ultimate planning process will be, clearly we
23 attempt -- we intend to make submissions based on this
24 plan as to perhaps deficiencies that should be
25 corrected.

1 But on the more fundamental question of
2 the relevance of this plan to the Board, we certainly
3 have concerns that the Ministry position now is that
4 this one plan which they put before us to examine as an
5 example of the planning process is now being, to some
6 extent, relegated to something less than an example of
7 this planning process.

8 You will be aware of our continual
9 concern in this hearing and our position in this
10 hearing that the extent to which the hearing is not
11 able to grapple with actual on-ground realities is a
12 problem which I think is very severe in terms of truly
13 evaluating what is happening in timber management in
14 the province.

15 This is the plan which, for whatever
16 reasons, the Ministry has given us to examine as an
17 example of the planning process. If there are
18 deficiencies in it, I think it is that much more
19 important that we see those deficiencies both in terms
20 of advocating whatever changes are necessary and in
21 terms of examining the process by which the Ministry is
22 in fact doing timber management planning.

23 THE CHAIRMAN: Okay. But - and correct
24 me if I am wrong, Mr. Kennedy - surely at the time the
25 Red Lake Plan was formulated all of the suggested draft

1 conditions of approval were not considered?

2 I assume that the draft conditions of
3 approval that the Ministry has put forward came after
4 the formulation of the Red Lake Plan?

5 MR. KENNEDY: Yes, Mr. Chairman, you are
6 correct and many of the draft terms and conditions have
7 come about as a result of the comments that we have
8 heard here in the hearing room and we've tried to
9 reflect many areas that we feel we can make
10 advancements on now.

11 THE CHAIRMAN: As well, I would suggest,
12 as the completion of the environmental assessment and
13 the consideration of the review of the environmental
14 assessment, as well as the evidence that has come into
15 this hearing to date?

16 MR. KENNEDY: That's correct. And I
17 could also advise that at one point we debated whether
18 it was necessary to bring forward an example to
19 illustrate the process. We had considered doing it in
20 a generic fashion without reference to an example and
21 we --

22 THE CHAIRMAN: I guess what the Board is
23 saying, Ms. Swenarchuk - sorry to interrupt, Mr.
24 Kennedy - is that, we could go back to plans that were
25 formulated ten years ago on an entirely different

1 planning process; they would not necessarily
2 approximate what is totally before the Board.

3 The Red Lake Plan was in that interim
4 period, it was in a period when it didn't follow an
5 older planning process, it attempted to approximate
6 what the new planning process would encompass, but that
7 new planning process, to the Board's understanding, has
8 been refined further and embellished through draft
9 terms and conditions, and I would suggest embellished
10 much more through evidence that has been brought into
11 this hearing to date including the comments and
12 cross-examinations of all parties.

13 And there is still a lot more to go;
14 there is still all of the evidence of the intervenors
15 and the other parties to come in which is going to end
16 up developing, or putting before the Board the total
17 material that the Board should consider. And I think
18 you are unduly focusing with a great deal of detail on
19 the Red Lake Plan which I'm not sure, in the overall
20 process, how instructive it is to what the Board will
21 finally end up looking at in its decision.

22 MS. SWENARCHUK: Mr. Chairman, my
23 understanding when this panel began was that this plan
24 was produced in accordance with this planning process
25 and I think that's substantially what we have heard.

1 We have before us the plan that the
2 Ministry chose, for whatever reasons, to present to the
3 Board as an example of this process. If the Ministry
4 has said since it was filed that further revisions in
5 the planning process are ongoing, that's still theory
6 and that's theory in the same form as we have heard
7 consistently throughout the case.

8 But in terms of the technical expertise
9 by which Ministry foresters draw up a plan, my guess is
10 that this plan is quite representative, in fact, they
11 said yesterday it's representative.

12 THE CHAIRMAN: Well, I would suggest to
13 you though - and correct me if I'm wrong, Mr. Kennedy -
14 if you went to do this plan today based on where you
15 are today, I would suggest that the Red Lake Plan,
16 although it may be similar in employing methodology of
17 a similar nature, it might have very different numbers
18 and very different results?

19 MR. KENNEDY: Yes, there would be a wide
20 variety of new numbers in there and new prescriptions
21 dealing with some of the innovations that we have
22 committed to since the beginning of the hearing.

23 MS. SWENARCHUK: Well then maybe they
24 should produce a more representative plan. I mean, I
25 think we are stuck with what we've got.

1 THE CHAIRMAN: No, but you will recall in
2 the scoping exercise, Ms. Swenarchuk, that the Board
3 indicated that, yes, it sees that there is an example
4 given of the development in terms of the evolution of
5 the new planning process in the Red Lake Plan, we
6 acknowledge that.

7 We indicated that we would certainly read
8 the material dealing with the Red Lake Plan,
9 but we are not considering the Red Lake Plan as "the
10 Bible" with respect to the planning process that is
11 being put forward to us for approval, we are
12 considering all of the evidence and all of the comments
13 brought into this hearing.

14 The Red Lake Plan may contain some
15 valuable material in terms of illustrating how some of
16 the principles we have dealt with in the evidence to
17 date are applied, but I would suggest, and that is
18 certainly I think - and my colleagues will probably
19 agree - not what the Board is basing its consideration
20 of what planning process and what conditions of
21 approval should be applied necessarily solely on what
22 is in the Red Lake Plan and what deficiencies may be
23 illustrated with respect to the Red Lake Plan.

24 MS. SWENARCHUK: Well, no, I don't think
25 any of us would suggest that you should make those

1 determinations based solely on this plan, but I would
2 suggest that since it's the only plan the Ministry has
3 chosen to give you to examine, that it's certainly
4 relevant as a test of the theory that has been advanced
5 throughout the case.

6 THE CHAIRMAN: But suppose they hadn't
7 done the Red Lake Plan, suppose you had an existing
8 planning process which they were now reforming to the
9 extent of putting a different one forward to the Board
10 for approval, you didn't have a plan that was done,
11 surely we would be empowered to look at what they
12 proposed to do under what conditions and under what
13 methodology and decide on a new planning process.

14 MS. SWENARCHUK: Yes, I quite agree, Mr.
15 Chairman.

16 THE CHAIRMAN: If the Red Lake Plan
17 wasn't even there. It is there, we are looking at it,
18 but I think we are spending far too much time going
19 into the detail of the Red lake Plan when, frankly, a
20 lot of the evidence we have heard to date would suggest
21 that not everything in the Red Lake Plan would be done
22 the same way today under the planning process put
23 forward by the Board.

24 MR. MARTEL: I think we suggested we
25 didn't even want to hear very much about the Red Lake

1 Plan, if you'll recall, during the scoping exercise.

2 MS. SWENARCHUK: Well, if I can just
3 reply to the Chairman's point first of all, which is
4 that: Yes, certainly if the Ministry had not been
5 implementing the current planning process to date it
6 would be our view that the Board would then be dealing
7 strictly with a theoretical approach to planning, but
8 it's been our position from our opening statement, Mr.
9 Chairman, that the real test of the planning process,
10 given that they are implementing it, can be determined
11 by examining what in fact that planning process is now
12 accomplishing.

13 THE CHAIRMAN: Well, I would suggest that
14 is a very rudimentary way to evaluate the planning
15 process on the basis of one plan that was put forward
16 that was done under the authority of a different
17 planning process and has elements of both the former
18 planning process and the one being put forward within
19 it and doesn't take into consideration, quite frankly,
20 the public review of the planning process.

21 You see, it's the public review that is
22 generating much of the evidence that is before this
23 Board and that, I would suggest to you in turn, is
24 generating many of the revisions, if I might put it
25 that way, revisions by way of suggested conditions of

1 approval - and we have only seen one side of the
2 suggested conditions of approval, not the suggested
3 conditions of approval of other parties - into the
4 planning process that will ultimately be before us for
5 approval.

6 And we are focusing I think on something
7 that may turn out to be -- well, it may not bear as
8 much resemblance to what ultimately is put before the
9 the Board as the entire package, after we have heard
10 everybody, as what you consider it stands for.

11 MS. SWENARCHUK: That's precisely, Mr.
12 Chairman, the reason for attempting to focus on these
13 areas, is to assist you ultimately through our own
14 proposals as to how the planning process should be
15 changed.

16 Now, if in fact you don't want to hear
17 any more about the Red Lake Plan, I really need to
18 reconsider significantly.

19 THE CHAIRMAN: We would rather, frankly,
20 I think - and I will consult my colleagues with respect
21 to this - but we would rather hear about what your
22 proposals are to change what has been proposed by the
23 Ministry in terms of the planning process so that we
24 have before us at the end of this case both sides of
25 the coin; we have what the Ministry has put forward as

1 what they would like to see approved with what
2 conditions they would like to see attached, and we have
3 all of the other parties' views as to what's wrong with
4 those positions and/or conditions, and what substituted
5 planning mechanisms or methodology other parties would
6 like to see put forward.

7 And then the Board will ultimately review
8 all of it and decide, in its view, where this planning
9 process should go.

10 Red Lake is an example, but it does not,
11 to the Board, represent necessarily the ultimate form
12 of what the planning process will result in, and I
13 don't think it is being put forward on that basis; it's
14 being put forward as a plan that occurred, was
15 formulated at a certain point in time under certain
16 ground rules, if I might use a word that has been used
17 frequently in these proceedings, and some of those
18 ground rules are changing.

19 MR. KENNEDY: Mr. Chairman, you've
20 captured our comments.

21 MS. SWENARCHUK: It was put forward and
22 described yesterday, Mr. Chairman, as a representative
23 plan.

24 THE CHAIRMAN: Well, the Board has had
25 some concerns with that description as put forward as a

1 representative plan because, quite frankly, we
2 acknowledge that it was put forward as a plan that
3 embodied many of the principles of the planning process
4 that is being put forward to us for approval but, in
5 our view, given the date it was prepared and given the
6 infrastructure under which it was prepared at that
7 point in time it, I would suggest, will not necessarily
8 represent, and doesn't represent even at this stage,
9 the Ministry's process that they are putting forward
10 for approval.

11 I don't know, Mr. Kennedy, you are in a
12 better position to comment on that.

13 MR. KENNEDY: Your last series of
14 comments is also correct, Mr. Chairman. When I used
15 the phrase as being a representative of the planning
16 process, I probably should have clarified that or
17 qualified it, in that it was representative of the
18 planning process that was in place at the time and
19 embodies many of the basic elements of the planning
20 process.

21 But you are correct in pointing out,
22 there are many new initiatives that we are suggesting
23 as part of our proposal, the more important ones we
24 have incorporated into the draft terms and conditions
25 and have filed with the Board and other parties, and

1 the majority of those new draft terms and conditions
2 are not reflected in the Red Lake Plan, but by way of
3 putting them into that form of draft terms and
4 conditions, we have indicated commitment to move in
5 that direction.

6 THE CHAIRMAN: And I would be awfully
7 surprised, Ms. Swenarchuk, if other parties when
8 submitting their draft terms and conditions and/or
9 putting in their own evidence will not be suggesting
10 substantial changes or amendments or other mechanisms
11 or methodology in certain areas than what the Ministry
12 is proposing.

13 MS. SWENARCHUK: I have already agreed
14 with you on that, Mr. Chairman, and what I have
15 indicated is that my attempt here is to focus on those
16 areas where we think changes should be made.

17 Now...

18 THE CHAIRMAN: Well, I think they should
19 be focused upon perhaps in a generic sense without
20 relevance specifically to the Red Lake Plan which I
21 think is somewhat confusing the issues in that it does
22 not embody much of what has been put forward by the
23 Ministry in terms of the planning process up for
24 approval before this Board.

25 MS. SWENARCHUK: Could I have a moment,

1 please?

2 THE CHAIRMAN: Well, you may need more
3 than a moment.

4 MS. SWENARCHUK: Yes, precisely, I think
5 I do.

6 MR. CAMPBELL: Mr. Chairman, I
7 certainly -- this question is critical to an
8 examination of this panel's evidence and if the Board
9 is going to give some specific direction in the matter,
10 I would like the opportunity to make submissions as
11 well, and there are some references that I would like
12 to bring to the Board's attention in making those
13 submissions and I would need a few minutes to get them
14 together.

15 THE CHAIRMAN: Well, I think --

16 ---Discussion off the record

17 THE CHAIRMAN: All right. The Board
18 itself wants to discuss some of these issues, so we
19 will adjourn now for --

20 MS. SWENARCHUK: Can I just make one
21 further point. It was my intention soon after this to
22 move to the area of concern planning process here.

23 Now, we heard the qualifying statements
24 on that this morning. In my view, those statements do
25 not at all detract from the value of looking at how a

1 unit forester approached the question of area of
2 concern planning, and whether or not other procedures
3 are put in place, I think that record stands for itself
4 and it should be examined; if not, let them produce a
5 more contemporary plan. But we have been told that we
6 will have an opportunity to examine a certain plan.

7 Again, we are looking at this from the
8 perspective of what does the public gain from this
9 planning process, and if the Board is not interested in
10 looking at the area of concern process in more detail
11 than has been done, because I think there is important
12 information there to be seen, I need to know that now.

13 THE CHAIRMAN: No, and in fairness you
14 should know that now. I think the Board will take a
15 break and allow counsel to discuss it as well as we
16 want to have a discussion amongst ourselves.

17 MR. CAMPBELL: Mr. Chairman, just before
18 you do break. I think in dealing with this question
19 you have to give appropriate consideration to the
20 position that MNR took at the beginning of this case
21 which was that the fact that this thing was actually
22 being applied on the ground was one of the great
23 strengths of the review of the planning process, that
24 it could be looked at in the context of what actually
25 was being done.

1 I mean, the proof of the pudding, Mr.
2 Chairman, is in the eating.

3 THE CHAIRMAN: Well, I'm not sure --

4 MR. CAMPBELL: We have talked a lot of
5 planning process.

6 MR. FREIDIN: The baking is not
7 necessarily finished, Mr. Campbell.

8 MR. CAMPBELL: Well, the evidence on this
9 planning process is finished from the Ministry of
10 Natural Resources and they have chosen to put forward
11 this plan to demonstrate those concepts and they,
12 themselves, took the position at the beginning of this
13 hearing that the great value of doing it this way was
14 the fact that it could be looked at in the context of
15 actual plans that were being prepared.

16 THE CHAIRMAN: Aspects of it could, but I
17 don't think the entire process is represented in that
18 plan.

19 MR. CAMPBELL: I am not suggesting for a
20 moment that it is, Mr. Chairman, in the Red Lake Plan,
21 but I am very worried that your words will be taken as
22 suggesting that it is somehow inappropriate to test the
23 planning theory that we have heard against the actual
24 work that is being done, apart from whether it's the
25 Red Lake Plan or other plans that are available to all

1 the people in this hearing.

2 THE CHAIRMAN: To the extent that that
3 plan is relevant to the planning process being put
4 forward for approval, meaning the whole planning
5 process being put forward.

6 MR. CAMPBELL: That's right, as described
7 in the Timber Management Planning Manual.

8 THE CHAIRMAN: And the Environmental
9 Assessment.

10 MR. CAMPBELL: Well, I will come back to
11 that in my cross-examination. But I am particularly
12 concerned about the Timber Management Planning Manual
13 and it certainly is my submission that it is perfectly
14 proper and appropriate to test the application of that
15 process against what is described in the manual as
16 against the current application of that manual.

17 And that is, in my submission -- I agree
18 entirely with my friend Mr. Freidin, it's one of the
19 great values, you can see how it's really working, you
20 don't have to talk about it in a vacuum and that,
21 surely, is valuable to the Board.

22 MR. CASSIDY: But I think it should also
23 been pointed out, as you have noted on several
24 occasions, Mr. Chairman, that the environmental
25 assessment process doesn't end with the start of this

1 hearing - and I think it should be noted - and I think
2 what you are essentially saying is that the Red Lake
3 Plan is not the be all and end all.

4 If you are going to test it, as Mr.
5 Campbell is fond of using that word, you better test it
6 with a caution that the process is developing. The
7 word draft in those terms and conditions was there for
8 a purpose, what was great discussion amongst all of us.

9 THE CHAIRMAN: I can assure you, Mr.
10 Cassidy, we are going to test it at the end of this
11 case based on all of the evidence, including all of the
12 suggested conditions and everything that is put before
13 this Board.

14 MR. CAMPBELL: And I think Mr. Cassidy
15 misstates my position. I am not limiting my comments
16 to the Red Lake Plan.

17 MR. CASSIDY: He used the word draft, I
18 didn't.

19 MR. CAMPBELL: I am not limiting myself
20 in making that comment to the Red Lake Plan. I am
21 saying that MNR itself took the position, one of the
22 great strengths that was available in this hearing was
23 the fact that this thing was actually being applied in
24 the field, right now, and that could be used to
25 demonstrate the application of the planning theory.

1 And I agree entirely with that submission
2 and suggest to you that it is entirely appropriate to
3 test it against the way that it is being applied.

4 If these witnesses say the MAD
5 calculation that has been discussed to date is no
6 longer being used on the unit, then that's an important
7 thing, it may lead to a term and condition, and it may
8 lead to a term and condition that says the MAD
9 calculation should show this and it shouldn't have
10 columns that are called NSR 5 and those sorts of
11 things.

12 How else can that be tested and
13 demonstrated to the Board except through that kind of
14 real life on-the-ground experience which is surely most
15 valuable.

16 MS. SWENARCHUK: Could I also add one
17 further argument to it, Mr. Chairman, which I think is
18 absolutely key to understanding why it is very
19 important to look in detail at a plan and; that is,
20 whatever the planning theory ultimately is, whatever
21 the terms and conditions ultimately are, there is a
22 thread that runs through this approach which the
23 Ministry has insisted on through all panels, and that
24 is the need for maximum flexibility and professional
25 decision-making and discretion.

1 And what we are attempting to examine in
2 looking at this plan is precisely that exercise of
3 professional decision-making and discretion and that
4 requires an examination of technical decisions and an
5 overall perspective on the technical quality of the
6 plan for forest or timber management, and that is the
7 purpose for which I have been dealing with the plan
8 itself in such detail.

9 And, Mr. Chairman, I don't believe there
10 is any other way that that absolutely fundamental
11 principle within the Ministry's planning process can be
12 examined.

13 THE CHAIRMAN: Do you have anything to
14 say, Mr. Freidin, just before we break?

15 MR. FREIDIN: Yes. I think this all
16 started with me getting up and making a very short
17 comment, Mr. Chairman, so I will make two very short
18 comments perhaps to end this discussion and; that is,
19 that the Red Lake Plan was in fact entered as a means
20 of assisting the Board in understanding the process
21 and, as has been indicated a number of times, things
22 have evolved and there are some inconsistencies between
23 the process which is before you now and which will be
24 before you at the end of the case and exactly what was
25 done in that plan, but I still think that it was a

1 useful exercise to use that plan to assist the Board in
2 understanding the process which has been forward.

3 And, secondly, when I rose and made my
4 objection, what I was really saying - I think perhaps
5 we got away from the purpose that I got up on my feet -
6 I didn't get up to say the question shouldn't be asked
7 about the Red Lake Plan.

8 In my view what was happening, and what
9 perhaps has happened since this morning, is that there
10 has been a failure to distinguish between asking
11 questions about the process that is being employed and
12 repeating questions regarding things such as the level
13 of growth and yield information which the Ministry has
14 available. That is information which the Ministry has
15 available. Those issues and issues like that were
16 canvassed in detail in the earlier panels.

17 It's one thing to ask questions about how
18 whatever information you do have about growth and yield
19 is used; it's another thing to get back into the
20 argument about: Shouldn't you have more information of
21 that type if, in fact, the evidence is clearly one way
22 or the other on that particular issue.

23 MS. SWENARCHUK: Again, Mr. Chairman,
24 those issues were canvassed in theory in earlier panels
25 and precisely the reason for asking the questions,

1 which will be the foundation of submissions to be made
2 to you at a later date, was to test that theory in the
3 the context of this plan.

4 MR. CAMPBELL: And, Mr. Chairman, on that
5 very point if I can quote from the transcript, 6th
6 Volume, May 17th, 1988. The question of what kind of
7 data was available that was considered in the
8 formulation of that plan. Mr. Douglas, MNR witness:

9 "My understanding is that some of the
10 information, I am not sure of the extent,
11 would be in the background documentation.

12 Panel 15 will give you a full and
13 detailed explanation of that."

14 MR. FREIDIN: Did you have growth and
15 yield information is one question as to whether you
16 have the information, it's another one to re-enter the
17 discussion about whether in fact the answer is yes or
18 no to get back into the line of questioning which took
19 it further.

20 That is all I am saying, I am trying
21 to -- I expect, the panel expects they will be asked
22 questions about the Red Lake Plan, I am taking a bit of
23 time here. I rose because I hoped that perhaps by
24 focusing on the process and not repeating arguments
25 which have been dealt with before that we could save

1 some time.

2 MS. BAIR-MUIRHEAD: Mr. Chairman, while
3 comments are being made, I have one comment to make
4 with respect to this and; that is, without an actual
5 plan before the Board and cross-examination on that
6 plan, there is no way of testing the theory in practice
7 and it allows the Ministry really to say that it's
8 illustrative of the process only and any deficiencies
9 are attributable to changes in the process which took
10 place subsequent to the development of the Red Lake
11 Plan.

12 And, Mr. Chairman, in my view there is no
13 way of testing this without examination of the
14 application of the theory to the practice to ensure
15 that, in fact, the new draft proposals do in fact deal
16 with identified deficiencies.

17 THE CHAIRMAN: Well, I don't think it's
18 productive to hear more submissions on the point. The
19 Board would like to discuss this amongst itself, so I
20 think we are going to adjourn for 30 minutes and we
21 will be back and perhaps we can resolve this issue at
22 that time.

23 ---Recess taken at 4:15 p.m.

24 ---On resuming at 4:35 p.m.

25 ---Discussion off the record

1 THE CHAIRMAN: After discussing this
2 matter in some detail the Board wants to set out
3 essentially that what we are looking for in terms of
4 the utilization of the Red Lake Plan in this process is
5 to know from the parties as to where the deficiencies
6 are in the Red Lake Plan which we accept is based
7 substantially on the planning process put before the
8 Board for approval.

9 We are not interested in the precise
10 statistics and data pertaining to the Red Lake
11 situation that cannot be made relevant to the planning
12 process put forward for the whole area of the
13 undertaking. We are interested in the parties using
14 the Red Lake Plan to point out deficiencies in the
15 planning process and to suggest how these deficiencies
16 can be rectified in their own case.

17 And I don't know, Ms. Swenarchuk, if this
18 assists you, I am sure it does in terms of how the
19 Board would like to see the Red Lake Plan used in this
20 proceeding, but what we are trying to get away with, I
21 think, is to go back over all of the evidence that
22 we've had in other panels dealing with how the data was
23 generated and dealing with the various methodologies of
24 calculating MAD, et cetera, that we've had before us.

25 If you feel that the way it was done, and

1 using the Red Lake Plan as an example is improper or is
2 deficient, then we would like you to point out those
3 deficiencies to us and then put forward any suggestions
4 for improvement in your own side of the case.

5 MR. CAMPBELL: Mr. Chairman, could I just
6 address that last point.

7 It seems to me that one of the benefits
8 of cross-examination as well -- you indicated several
9 times now, you've put forward the suggestion of
10 presenting that in your own case - it seems to me that
11 one of the classic uses of cross-examination and that
12 is of benefit to the Board is that right at the time
13 that a deficiency is pointed out you ask the witnesses
14 that are responsible for that area if approaching it
15 this way might not improve the situation with respect
16 to that deficiency. And I take it you are not
17 excluding that?

18 THE CHAIRMAN: No, no, no, we are not
19 excluding that because you will probably want their
20 opinion--

21 MR. CAMPBELL: Exactly.

22 THE CHAIRMAN: --as to whether or not
23 your suggested method of rectifying it would (a) be
24 practical, (b) would work and does any better than what
25 they have put forward.

1 MR. CAMPBELL: Thank you, Mr. Chairman.

2 THE CHAIRMAN: I think witnesses should
3 be allowed to comment on that, but going beyond that,
4 supposedly being advised by the -- the parties being
5 advised by their own respective experts will probably
6 put forward other suggestions during their own side of
7 the case and, of course, the Board wants to consider
8 that as well.

9 MR. CAMPBELL: Thank you, Mr. Chairman.

10 That just clarifies it.

11 MS. SWENARCHUK: Can you just answer one
12 question for me: Are you suggesting that it was
13 inappropriate then to identify the long-term wood
14 supply questions of the MAD calculation in this plan?

15 THE CHAIRMAN: No, no, we are not
16 suggesting that at all.

17 MS. SWENARCHUK: Okay.

18 THE CHAIRMAN: And, in fact, that may be
19 one of the deficiencies that you want to point out with
20 respect to the Red Lake Plan with respect to the
21 planning process that would be followed in the future,
22 The inability to perhaps accurately identify through
23 the methodology employed the long-term wood supply.

24 Well, that's essentially the conclusion
25 the Board has come to after the discussion on the

1 record and it may necessitate, Ms. Swenarchuk, you
2 considering the remainder of your cross-examination in
3 the light of these comments, I don't know.

4 MS. SWENARCHUK: Well, I guess the
5 problem I have, Mr. Chairman, is that I thought that
6 was what I was doing and it's certainly what I intended
7 to do, is to focus on what we see as deficiencies in
8 this plan, No. 1, or parts of this plan which
9 illustrate the application of those discretionary
10 decision-making processes that we've heard about
11 throughout, and our ultimate position on those details
12 of this plan will be evident to you in our case and in
13 the argument at the end.

14 I didn't think it was appropriate to
15 spend time after each point indicating what our
16 argument will be on it, but that's the base that's
17 being laid and that's essentially what I intended to
18 continue to do on different subjects from the plan
19 tomorrow, and I am inclined to continue to do that.

20 MRS. KOVEN: And that's what I think we
21 agreed that you should do that. At times we are a
22 little slow and you have to say to us: Yes, this is a
23 deficiency and this is why it's deficient.

24 I think we got off the tracks with your
25 last question that sounded like it was going to be an

1 undertaking about some more detailed statistical
2 information about the Red Lake Plan. So if you wanted
3 to pick up, I think maybe we could start where you left
4 off and what your question was going to be about more
5 information.

6 MS. SWENARCHUK: I think I would prefer
7 to stop here for the day and take a look at the
8 remainder of this subject area and the other subject
9 area which I was going to deal with tomorrow.

10 THE CHAIRMAN: Okay.

11 MS. SWENARCHUK: Might I just remind you
12 that I said at the beginning of the morning that it
13 would be a technical, detailed cross-examination. It
14 was precisely for that reason, to focus on areas where
15 there are deficiencies or where we think other
16 approaches should be made.

17 THE CHAIRMAN: Okay. But can the
18 deficiencies be articulated in terms of deficiencies in
19 methodology without going through all of the numbers
20 involved, like, putting it in words? I don't know, I
21 am asking you in terms of what you are trying to
22 present.

23 MS. SWENARCHUK: Well, I think we only
24 went through the numbers on one issue, a key issue in
25 my view.

1 THE CHAIRMAN: Mm-hmm.

2 MS. SWENARCHUK: I didn't plan to go
3 through a lot of numbers tomorrow but, again, I do
4 think that it's important to examine exactly the words
5 and the degree of analysis that is in the plan and I
6 don't see any way of avoiding that without returning to
7 the area of theory which, it was always our
8 understanding, this plan was presented to test.

9 THE CHAIRMAN: Well, we do accept that
10 the Red Lake Plan was put forward by the Ministry as an
11 example of how the new Timber Management Planning
12 Manual has application; is that not correct, Mr.
13 Kennedy?

14 MR. KENNEDY: Yes, that's correct, and
15 there has been a number of developments that have taken
16 place since that plan has been prepared.

17 THE CHAIRMAN: Yes, we understand that as
18 well. But it substantially is an application of the
19 new Timber Management Planning Manual?

20 MR. FREIDIN: Not just the manual. You
21 will recall Mr. Kennedy's comment that it was also the
22 Environmental Assessment Document which has been kept
23 separate at the moment.

24 THE CHAIRMAN: Yes.

25 MRS. KOVEN: And we considered the fact

1 that you put forward this plan as your judgment that
2 this is an exceptionally good plan.

3 MR. FREIDIN: I think the witnesses spoke
4 to that very matter, as to whether this was the best
5 plan and I think --

6 MRS. KOVEN: Well, they skirted around
7 that a little. Obviously it's not a poor example of
8 the timber management process; it's one that the
9 Ministry is proud of and that's why we are looking at
10 this specific plan.

11 THE CHAIRMAN: It could have been any one
12 of the 37 plans having been done to date, or 31 or
13 whatever you were up to when you started this case.

14 MR. FREIDIN: Well, with respect, I mean
15 there are some plans that were so recent that I
16 certainly wouldn't be able to be familiar with them and
17 we couldn't just bring them in here and present them as
18 evidence.

19 THE CHAIRMAN: Right.

20 MR. FREIDIN: So if that has something to
21 do with --

22 THE CHAIRMAN: But there was some element
23 of choice in Ministry in terms of saying: We will
24 choose the Red Lake Plan as opposed to some other plan?

25 MR. FREIDIN: I think you have our

1 position.

2 THE CHAIRMAN: Presumably you made that
3 choice with some interest of your client in mind.

4 MR. FREIDIN: Yes, sir.

5 THE CHAIRMAN: Okay. I think we will
6 leave that discussion at this point.

7 Two things. I am going to put out for
8 the parties a copy of the transcript concerning the
9 Board's discussions regarding the length of the hearing
10 from yesterday, just so everybody basically has a copy
11 of what the Board's concerns were that were raised at
12 that time. We have had a further small discussion
13 today which of course isn't included in this, we will
14 leave that.

15 We might also advise that we have just
16 done some very rough calculations based on the parties'
17 submissions to the Board as to how long they expect to
18 be in cross-examination of this panel and we come up
19 with the cross-examination ending approximately on
20 November the 8th.

21 ---Discussion off the record

22 THE CHAIRMAN: In addition to that there
23 is re-examination on this panel, and based on the
24 length of time in cross-examination, I suggest that we
25 will probably be some time in re-examination as well.

1 So that we won't finish Panel 15, based
2 on this estimation, until probably the end of the
3 second or third week in November and then, of course,
4 we have Panel 16 and Panel 17 and Dean Baskerville and
5 then possibly the industry.

6 MR. MARTEL: And then it's summer.

7 MR. CASSIDY: I'm counting on it. I have
8 another life to lead at some point.

9 THE CHAIRMAN: We want you to take this
10 into account when you are meeting next Tuesday to
11 discuss whatever you are going to discuss, and we would
12 also ask the parties to contact, if you wouldn't mind,
13 OFAH to make sure that they are included, to the extent
14 that they wish to be included, in these discussions
15 because we know that they will be cross-examining on
16 this panel and, quite likely, the next two panels as
17 well.

18 So you can see from this that our
19 original projections are wildly out of whack with
20 whatever anyone contemplated even as recently as five
21 or six weeks ago.

22 8:30 tomorrow. Thank you.

23 ---Whereupon the hearing adjourned at 4:50 p.m., to be
24 reconvened on Thursday, October 5th, 1989,
25 commencing at 8:30 a.m.

